

ORION METALS LIMITED
ACN 096 142 737

WHISTLEBLOWER POLICY

1. INTRODUCTION

Orion Metals Limited is committed to maintaining the highest standards of honesty, openness and accountability both within the company and in all of its business dealings. Orion Metals Limited recognises that its employees have an important role to play in achieving these goals.

In Australia, the *Corporations Act 2001* (Cth) (**Corporations Act**) and the *Tax Administration Act 1953* (Cth) provide for protection of whistleblowers. This Policy will focus on the protections available under the Corporations Act (**Whistleblower Regime**).

2. OVERVIEW AND APPLICATION

In summary, under the Whistleblower Regime, an *eligible whistleblower* will qualify for protections under the Whistleblower Regime if the eligible whistleblower makes a disclosure of a *disclosable matter* to a person who is eligible to receive a protected disclosure. Disclosures made on or after 1 July 2019 in accordance with the requirements of the Whistleblower Regime are called *protected disclosures*.

This Policy applies to Orion Metals Limited and its related bodies corporate (**Orion Metals**).

This Policy sets out information about:

- (a) who can make a disclosure protected by the Whistleblower Regime – section 3;
- (b) who is eligible to receive a protected disclosure – section 4;
- (c) the types of disclosures that qualify for protection under the Whistleblower Regime – sections 5 and 6;
- (d) how disclosures may be made – section 7;
- (e) the protections available to whistleblowers, including under the Whistleblower Regime – section 8;
- (f) how Orion Metals will investigate disclosures that qualify for protection under the Whistleblower Regime – section 9;
- (g) how Orion Metals will support and ensure fair treatment – sections 10 and 11; and
- (h) how this Policy will be made available to officers and employees of Orion Metals – section 12.

All employees and officers of Orion Metals are responsible for understanding and complying with this Policy. Breach of this Policy may be regarded as misconduct and may lead to disciplinary action up to and including termination of employment or engagement, as applicable.

In particular, eligible recipients within Orion Metals must be aware of their obligations under the Whistleblower Regime and this Policy to maintain confidentiality of the identity of individuals who make disclosures and any information that would lead to their identification, unless one of the exceptions applies.

1. WHO CAN MAKE A PROTECTED DISCLOSURE?

A person is an *eligible whistleblower* if they are or have previously been:

- (i) an officer of Orion Metals;

- (j) an employee of Orion Metals;
- (k) a person who supplies goods or services to Orion Metals, and employees of those suppliers;
- (l) an individual who is an associate of Orion Metals; or
- (m) a relative, dependent, or spouse of a dependent of any of the above persons.

3. **WHO CAN RECEIVE A PROTECTED DISCLOSURE?**

Within Orion Metals, the following individuals will be an *eligible recipient* of a protected disclosure:

- (a) an officer of Orion Metals;
- (b) a senior manager of Orion Metals;
- (c) an auditor, or a member of an audit team conducting an audit, of Orion Metals;
- (d) an actuary of Orion Metals.

Orion Metals takes all protected disclosures seriously. Orion Metals accordingly encourages its employees and others to raise their concerns directly with an eligible recipient of Orion Metals.

An eligible whistleblower may also make a protected disclosure to:

- (a) the following regulators:
 - (i) the Australian Securities and Investments Commission (**ASIC**);
 - (ii) the Australian Prudential Regulation Authority (**APRA**); or
 - (iii) a prescribed Commonwealth authority;
- (e) in certain circumstances, a journalist or member of Parliament (see Section 6 below).

4. **SCOPE OF DISCLOSABLE MATTERS THAT ARE DISCLOSABLE UNDER THE WHISTLEBLOWER REGIME**

Generally, only disclosures of certain types of information will qualify for protection under the Whistleblower Regime.

Information is a *disclosable matter* if the discloser has reasonable grounds to suspect that the information disclosed:

- (a) concerns misconduct or an improper state of affairs or circumstances in relation to Orion Metals; or
- (b) indicates that Orion Metals or any employee or officer has engaged in conduct that:
 - (i) constitutes an offence against, or a contravention of, a provision of specific legislation including the Corporations Act and the Australian Securities and Investments Commission Act 2001 (Cth);
 - (ii) constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more; or
 - (iii) represents a danger to the public or the financial system.

However, if a disclosure includes information about a *personal work-related grievance* (for example a disclosure about an interpersonal conflict or a disciplinary decision), then the disclosure does not qualify for protection to the extent that it relates to the personal work-related grievance unless that disclosure:

- (a) concerns a contravention, or an alleged contravention of the prohibition of victimisation under the Whistleblower Regime (see Section 8.3);
- (c) has significant implications for Orion Metals that do not relate to the discloser; or
- (d) concerns conduct, or alleged conduct that:
 - (i) constitutes an offence against, or a contravention of, a provision of specific legislation including the Corporations Act and the and the Australian Securities and Investments Commission Act 2001 (Cth);
 - (ii) constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more; or
 - (iii) represents a danger to the public or the financial system.

5. **TYPES OF DISCLOSURES THAT QUALIFY FOR PROTECTION UNDER THE WHISTLEBLOWER REGIME**

The following are the primary types of disclosures that qualify for protection under the Whistleblower Regime:

- (a) **Disclosures to eligible recipients:** Disclosures of a disclosable matter made by an eligible whistleblower in relation to Orion Metals to an eligible recipient (see Section 4).
- (b) **Disclosures to regulators:** Disclosures of a disclosable matter made by an eligible whistleblower in relation to Orion Metals to ASIC, APRA, or a prescribed Commonwealth authority.
- (c) **Disclosures to legal practitioner:** Disclosures made by an individual to a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the Whistleblower Regime.

There are two additional categories of disclosures called *public interest disclosures* and *emergency disclosures*. However, these disclosures qualify for protection only if the discloser complies with all of the strict requirements as outlined below.

Public interest disclosure

In relation to a public interest disclosure, protections are only available if:

- (a) the discloser has previously made a disclosure that qualifies for protection to ASIC, APRA or a prescribed Commonwealth authority;
- (d) at least 90 days have passed since the previous disclosure was made;
- (e) the discloser does not have reasonable grounds to believe that action is being, or has been, taken to address the previous disclosure;
- (f) the discloser has reasonable grounds to believe that making a public interest disclosure would be in the public interest;
- (g) after 90 days have passed, the discloser has given written notice to the body to which the previous disclosure was made that includes sufficient information to identify the previous disclosure and states that the discloser intends to make a public interest disclosure;
- (h) the disclosure is made to a journalist (as defined in the Corporations Act) or member of Parliament (at the Federal, State or Territory level); and
- (i) the extent of information disclosed to the journalist or member of Parliament is no greater than is necessary to inform the recipient of the matter that was the subject of the previous disclosure.

Emergency disclosure

In relation to an emergency disclosure, protections are only available if:

- (a) the discloser has previously made a disclosure that qualifies for protection to ASIC, APRA or a prescribed Commonwealth authority;
- (b) the discloser has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health and safety of one or more persons, or to the natural environment;
- (c) the discloser has given written notice to the body to which the previous disclosure was made that includes sufficient information to identify the previous disclosure and states that the discloser intends to make an emergency disclosure;
- (d) the disclosure is made to a journalist (as defined in the Corporations Act) or member of Parliament (at the Federal, State or Territory level); and
- (e) the extent of the information disclosed to the journalist or member of Parliament in the emergency disclosure is no greater than is necessary to inform the recipient of the emergency disclosure of the substantial and imminent danger.

6. HOW MAY DISCLOSURES BE MADE?

There is no requirement for disclosures to be made in a particular form. Disclosures may be made in writing (eg via email), in person or via telephone.

Disclosures may be made on an anonymous basis. However, anonymous disclosures may not be dealt with as effectively as direct reports to an eligible recipient within Orion Metals, as Orion Metals may not be able to obtain additional information from an anonymous whistleblower. Orion Metals also wishes to take this opportunity to emphasise that all whistleblowers who disclose their identity while making a protected disclosure will be afforded confidentiality protections in respect to their identity as outlined in the next Section.

7. PROTECTIONS AVAILABLE TO WHISTLEBLOWERS IN AUSTRALIA

7.1 Confidentiality

Strict confidentiality obligations apply in relation to any protected disclosures. The identity or any information that may lead to the identification of the whistleblower (**Confidential Identity Information**) will not be disclosed by Orion Metals unless Orion Metals is authorised to do so under the Whistleblower Regime.

A disclosure of Confidential Identity Information is authorised under the Whistleblower Regime if:

- (a) the disclosure is made with the consent of the whistleblower; or
- (b) the disclosure is made to:
 - (i) ASIC, APRA or a member of the Australian Federal Police (**AFP**); or
 - (ii) a legal practitioner for the purposes of obtaining advice or legal representation in relation to the operation of the Whistleblower Regime; or
 - (iii) a body prescribed by the regulations; or
- (c) all of the following applies to the disclosure:
 - (i) the disclosure does not disclose the whistleblower's identity but discloses information that may lead to the identification of the whistleblower; and
 - (ii) is reasonably necessary for the purpose of investigating the disclosure; and

- (iii) all reasonable steps are taken to reduce the risk that the whistleblower will be identified.

7.2 Protection from legal action

Eligible whistleblowers who make a protected disclosure under the Whistleblower Regime are protected from certain legal action taken by Orion Metals or any individuals because of the disclosure, including:

- (a) civil, criminal, and administrative (including disciplinary) action against the whistleblower; and
- (b) contractual action, including termination of a contract on the basis that making a disclosure is a breach of that contract.

Any information that is disclosed as part of a protected disclosure to ASIC, APRA or a prescribed Commonwealth authority will not be admissible in evidence against the whistleblower in criminal proceedings or in proceedings for the imposition of a penalty, except for proceedings in respect of the falsity of the information.

7.3 Prohibition against detriments and threats

The Whistleblower Regime makes it unlawful for a person to:

- (a) engage in conduct that causes any detrimental treatment to a whistleblower or another person because the person engaging in the conduct believes or suspects that the other person or a third person made, may have made, proposes to make, or could make, a protected disclosure; or
- (b) make a threat (whether express or implied, conditional or unconditional, intentional or reckless) to cause any detriment to a whistleblower or another person because the whistleblower or another person has made, or may make, a protected disclosure.

“Detrimental treatment” is defined broadly under the Whistleblower Regime and includes dismissal, disciplinary action, injuring an employee in their employment, altering their position or duties to their disadvantage, threats, harassment, discrimination, damage to a person's property, reputation, business or financial position, and any other damage to a person. Penalties apply for engaging in any of the conduct referred to above. Any person involved in the contravention may be found liable.

If a person suffers detriment or is threatened detriment by another person's conduct that is in contravention of the Whistleblower Regime, the person may apply to the court for an order of compensation or another remedy against those involved.

Courts are given broad scope to make orders if satisfied detrimental conduct has occurred or been threatened. Courts may order compensation (against the individual involved and their employer), injunctions, apologies, reinstatement, exemplary damages, or any other order the court thinks appropriate.

7.4 Other protections available

As noted above, there is a separate whistleblower protections regime under the *Tax Administration Act 1953* (Cth). Broadly speaking, the types of disclosures that are protected under this separate regime relate to information about the tax affairs of Orion Metals.

Disclosures that qualify for protection under the Whistleblower Regime may also amount to the exercise of a workplace right. Orion Metals is prohibited under the *Fair Work Act 2009* (Cth) from taking adverse action against employees or contractors because they exercised or propose to exercise any workplace rights.

8. HOW ORION METALS WILL INVESTIGATE DISCLOSURES

Orion Metals takes all protected disclosures seriously and, where appropriate, will investigate protected disclosures that are reported to an eligible recipient within Orion Metals.

Orion Metals will need to make preliminary enquiries to decide whether a full investigation will be necessary. If such an investigation is necessary then, depending on the nature of the disclosable matter, a protected disclosure will be either:

- (a) investigated internally (by management or internal audit); or
- (b) referred to the appropriate external person for investigation.

The referral of a protected disclosure for investigation will be done in accordance with the confidentiality obligations that Orion Metals owes to the whistleblower. If compliance with Orion Metal's confidentiality obligations will result in the inability to conduct a fair investigation, the whistleblower will be informed in advance of being identified.

Orion Metals will aim to keep the whistleblower informed of the progress of the investigation and its expected timescale. However, confidentiality concerns, if any, may prevent Orion Metals from providing specific details of the investigation or any disciplinary action taken as a result. All staff should treat any information about the investigation as confidential.

9. SUPPORT FOR WHISTLEBLOWERS

By this Policy, Orion Metals is committed to ensuring all personnel feel supported and able to raise issues which relate to any misconduct or improper state of affairs or circumstances within Orion Metals.

Where a protected disclosure is made, Orion Metals will reiterate the requirements of this Policy and the Whistleblower Regime with any person concerned in the investigation of the disclosure.

As stated in Section 9, Orion Metals will conduct investigations into protected disclosures in a manner which is fair in all of the circumstances and will have regard to the protections afforded to the whistleblower and the privacy and fair treatment of persons referred to in the disclosure, including those to whom the disclosure relates.

Orion Metals will determine whether any disciplinary outcomes or other remedies are appropriate after an investigation into a protected disclosure is completed.

10. FAIR TREATMENT

Orion Metals will not tolerate any reprisals or threats of reprisals made against whistleblowers and will take appropriate steps to protect whistleblowers from such retaliation, consistent with the provisions of Section 7 of this Policy.

It is important that all investigations into protected disclosures are conducted in a procedurally fair and confidential manner, to ensure the fair treatment of any individuals named in the protected disclosure or to whom the protected disclosure relates.

11. ACCESSIBILITY OF THE POLICY

This Policy will be made available to officers and employees of Orion Metals through the following methods:

- (a) a copy will be emailed to existing employees;
- (b) a copy will be included in the induction materials for any new employees or officers; and
- (c) a copy will be available on the Orion Metals intranet.

APPROVED BY THE BOARD OF DIRECTORS OF ORION METALS LIMITED ON 14 NOVEMBER 2019