



Genex Power Limited **Whistleblower Policy**

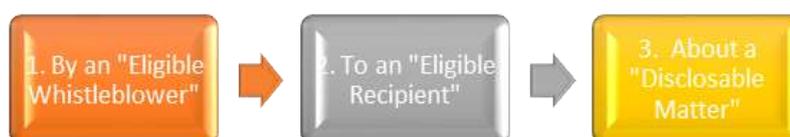
1. Introduction

Genex Power Limited (**Genex**) is committed to promoting a culture of corporate compliance and high ethical behaviour. This Whistleblower Policy (**WB Policy**) is intended to provide a mechanism for the reporting of concerns regarding alleged unlawful conduct or other misconduct (as set out in this WB Policy) that may be occurring at Genex, having regard to and in accordance with the requirements of Part 9.4AAA of the *Corporations Act 2001* (Cth) (**Corporations Act**) and the *Taxation Administration Act 1953* (Cth) (**Tax Act**). Such disclosures are important to Genex's risk management and corporate governance framework. This WB Policy also assists Genex in meeting its legal and regulatory obligations.

The legal rights and protections for whistleblowers set out in the Corporations Act will only apply if certain requirements and conditions are met. This will depend on:

- (a) the nature of the individual's role and/or relationship with Genex (an individual must be a "**Discloser**");
- (b) the company or organisation the disclosure is about;
- (c) who the disclosure is made to (the disclosure must be made by a Discloser to an "**Eligible Recipient**");
- (d) the subject of the disclosure (the disclosure must be about a "**Disclosable Matter**").

As such, for this WB Policy and the protections in the Corporations Act to apply, the disclosure must be made:



2. Purpose of the WB Policy

The WB Policy is an important mechanism for assisting Genex to identify wrongdoing that may not be uncovered or identified unless there is a safe and secure means for disclosing wrongdoing.

The purpose of this WB Policy is to:

- (a) encourage disclosures of wrongdoing and help deter wrongdoing;
- (b) ensure that individuals who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported;
- (c) ensure disclosures are dealt with appropriately and on a timely basis;
- (d) provide transparency around Genex's framework for receiving, handling and investigating disclosures;

- (e) support Genex's values;
- (f) support Genex's long-term sustainability and reputation;
- (g) meet Genex's legal and regulatory obligations.

Genex encourages those who are aware of possible wrongdoing to make a disclosure.

3. Who does the WB Policy apply to?

3.1 Eligible Whistleblowers

An Eligible Whistleblower is entitled to protections under the Corporations Act (these protections are set out in Part 8 of this WB Policy).

An "**Eligible Whistleblower**" is an individual who is a:

- (a) current or former officer or employee of Genex (including employees who are full time, part time, casual, fixed term or temporary, interns, managers or directors);
- (b) current or former supplier of services or goods to Genex (whether paid or unpaid), including the supplier's employees (including current and former contractors of Genex, consultants, service providers, suppliers and business partners);
- (c) current or former associate of Genex; or
- (d) relative, dependant or spouse of an individual in paragraph (a)-(c) above,

(who, for the purpose of this WB Policy, will be referred to as a **Discloser**), and they have made a disclosure:

- (e) of information relating to a Disclosable Matter directly to an "**Eligible Recipient**" (as defined by this WB Policy) of Genex or to the Australian Investment and Securities Commission (**ASIC**) or another Commonwealth body as prescribed by applicable regulations;
- (f) to a legal practitioner for the purposes of obtaining legal advice or legal representation about the operation of the whistleblower provisions in the Corporations Act; or
- (g) which is an "emergency disclosure" or "public interest" disclosure.

A Discloser may still qualify for protection even if their disclosure turns out to be incorrect.

3.2 Disclosures pertaining to tax matters

The Tax Act protects Disclosers who make a disclosure:

- (a) to the Australian Taxation Office (**ATO**) if the Discloser considers the information may assist the ATO to perform its duties under a taxation law in relation to Genex; or
- (b) an Eligible Recipient, if the Discloser:
 - (i) has reasonable grounds to suspect that the information they intend to provide indicates misconduct, or an improper state of affairs or circumstances, in relation to the tax affairs of Genex; and

- (ii) considers the information may assist the Eligible Recipient to perform their duties under a taxation law in relation to Genex.

4. Matters the WB Policy applies to

4.1 Disclosable Matters

“**Disclosable Matters**” for the purpose of this WB Policy are:

- (a) information that the Discloser has reasonable grounds to suspect concerns misconduct (which includes fraud, negligence, default, breach of trust or breach of duty), or an improper state of affairs or circumstances, in relation to Genex; and
- (b) information about Genex where the Discloser has reasonable grounds to suspect that the information indicates Genex (including their employees or officers) has engaged in conduct that:
 - (i) constitutes an offence against, or a contravention of, a provision of any of the following:
 - (A) the *Corporations Act*; and
 - (B) 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;
 - (iii) represents a danger to the public or the financial system; or
 - (iv) is prescribed by regulation.

A Discloser may still qualify for protection under the Corporations Act even if their disclosure turns out not to be incorrect.

4.2 Examples of Disclosable Matters

Some examples of Disclosable Matters include:

- (a) illegal conduct, such as theft, dealing in, or use of illicit drugs, violence or threatened violence, and criminal damage against property;
- (b) fraud, money laundering or misappropriation of funds;
- (c) offering or accepting a bribe;
- (d) financial irregularities;
- (e) failure to comply with, or breach of, legal or regulatory requirements; or
- (f) engaging in or threatening to engage in detrimental conduct against a person who has made a disclosure or is believed or suspected to have made or be planning to make a disclosure.

4.3 Contravention of a particular law not required

Disclosable Matters includes conduct that may not involve a contravention of a particular law. For example, it may include:

- (a) 'misconduct or an improper state of affairs or circumstances' may not involve unlawful conduct in relation to Genex but may indicate a systemic issue that a regulator may need to be made aware;
- (b) dishonest or unethical behaviour and practices, conduct that may cause harm, or conduct prohibited by Genex's standards or code(s) of conduct; or
- (c) information that indicates a significant risk to public safety or the stability of, or confidence in, the financial system is also a Disclosable Matter, even if it does not involve a breach of a particular law.

4.4 Tax Whistleblower Regime

To qualify for protection under the tax whistleblower regime in the Tax Act, the Eligible Whistleblower must have reasonable grounds to suspect that the information indicates misconduct or an improper state of affairs or circumstances in relation to tax affairs of Genex.

4.5 Types of Disclosures not covered by this WB Policy

This WB Policy does not cover disclosures that are not about Disclosable Matters because such disclosures do not qualify for protection under the Corporations Act.

Personal work-related grievances

This WB Policy also does not relate to the disclosure of information by a person to the extent that the information disclosed concerns a "**personal work-related grievance**". Disclosures that relate solely to personal work-related grievances, and that do not relate to detriment or threat of detriment to a Discloser do not qualify for protection under the Corporations Act.

Personal work-related grievances are grievances where:

- (a) the information concerns a grievance about any matter in relation to the person's employment or engagement with Genex having (or tending to have) implications for the person personally; and
- (b) the information:
 - (i) does not have significant implications for Genex; and
 - (ii) does not concern conduct, or alleged conduct, which would be a Disclosable Matter under this WB Policy.

Examples of grievances that may be personal work related grievances include:

- (a) an interpersonal conflict between the person and another employee;
- (b) a decision relating to the engagement, transfer or promotion of the person;
- (c) a decision relating to the terms and conditions of engagement of the person;
- (d) a decision to suspend or terminate the engagement of the person, or otherwise to discipline the person.

There may be some personal work-related grievances which qualify for protection under the Corporations Act, for example if:

- (e) a personal work-related grievance includes information about misconduct, or information about misconduct includes or is accompanied by a personal work-related grievance (i.e. a mixed report);
- (f) the Discloser suffers from or is threatened with detriment for making a disclosure;
- (g) Genex has breached employment or other laws punishable by imprisonment for a period of 12 months or more;
- (h) Disclosures that are not covered by this Policy, may be covered by other legislation such as the *Fair Work Act 2009* (Cth).

4.6 Deliberate False Report

Deliberate false reports involve a person reporting information which they know to be untrue. Deliberate false reports have the potential to cause significant consequences, such as damaging the reputation of Genex or the reputation of any individuals identified in a false report.

Genex discourages deliberate false reporting.

5. Who can receive a disclosure

5.1 Eligible Recipients

A Discloser needs to make a disclosure directly to an “**Eligible Recipient**” (as defined by this WB Policy) of Genex to be able to qualify for protection as a whistleblower under the Corporations Act (or the Tax Act where relevant).

The role of an Eligible Recipient is to receive disclosures which qualify for protection under the Corporations Act (or the Tax Act where relevant).

An “**Eligible Recipient**” of Genex for the purpose of this WB Policy are the following types of people:

- (a) an officer of Genex (which includes a director or the company secretary of Genex);
- (b) a senior manager of Genex;
- (c) the internal or external auditor or actuary of Genex (including a member of an audit team conducting an audit);
- (d) a person authorised by Genex to receive disclosures that may qualify for protection. Genex

A list of the internal and external Eligible Recipients of Genex is contained in **Annexure A** of this WB Policy.

Genex encourages Disclosers to make a disclosure to one of the internal or external Eligible Recipients of Genex in the first instance so that Genex can identify and address wrongdoing as early as possible. This approach is also intended to help build confidence and trust in this WB Policy and its procedures. However, A Discloser may make a disclosure directly to a regulatory body without first making the disclosure to an Eligible Recipients if the Discloser wishes to do so.

5.2 Legal practitioners

Disclosures to a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of the whistleblower provisions in the

Corporations Act are also protected under the Corporations Act (even in the event that the legal practitioner concludes that a disclosure does not relate to a Disclosable Matter).

5.3 Regulatory bodies

Disclosures of information relating to Disclosable Matters can also be made to (and will qualify for protection under the Corporations Act) the following regulatory bodies:

- (a) ASIC;
- (b) another Commonwealth body prescribed by applicable regulations;
- (c) ATO (in relation to tax-related matters under the Tax Act).

Annexure B contains links to the whistleblowing information provided by ASIC or the ATO.

6. Public Interest and Emergency Disclosures

Disclosures may be made to a journalist or parliamentarian under certain circumstances and qualify for protection under the Corporations Act.

Such disclosures may be either a **“public interest disclosure”** or **“emergency disclosure”**.

6.1 Public interest disclosure

A **“public interest disclosure”** is the disclosure of information to a journalist or a parliamentarian, where:

- (d) at least 90 days have passed since the Discloser made the disclosure to ASIC, APRA or another Commonwealth body prescribed by applicable regulations;
- (e) the Discloser does not have reasonable grounds to believe that action is being, or has been taken, in relation to their disclosure;
- (f) the Discloser has reasonable grounds to believe that making a further disclosure of the information is in the public interest; and
- (g) before making the public interest disclosure, the discloser has given written notice to the body to which the previous disclosure was made that:
 - (i) includes sufficient information to identify the previous disclosure; and
 - (ii) states that the Discloser intends to make a public interest disclosure.

6.2 Emergency disclosure

An **“emergency disclosure”** is the disclosure of information to a journalist or parliamentarian where:

- (a) the Discloser has previously made a disclosure of the information to ASIC, APRA or another Commonwealth body prescribed by applicable regulations;
- (b) the Discloser has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment; and
- (c) before making the emergency disclosure, the Discloser has given written notice to the body to which the previous disclosure was made that:

- (i) includes sufficient information to identify the previous disclosure; and
- (ii) states that the discloser intends to make an emergency disclosure; and
- (iii) the extent of the information disclosed in the emergency disclosure is no greater than is necessary to inform the journalist or parliamentarian of the substantial and imminent danger.

6.3 Making a public interest disclosure or emergency disclosure

It is important that the Discloser understands the criteria for making a public interest disclosure or emergency disclosure:

- (a) the disclosure must have previously been made to ASIC, APRA or other prescribed body;
- (b) the Discloser has given a written notice to the relevant body to whom the disclosure was made;
- (c) in the case of a public interest disclosure, at least 90 days must have passed since the disclosure was made to the relevant body.

It is recommended that a Discloser contacts an independent legal adviser before making a public interest disclosure or an emergency disclosure.

7. How to make a disclosure

7.1 Reporting Procedures

Annexure A of this WB Policy sets out instructions on internal and external reporting options.

7.2 Anonymous disclosures

A Discloser who reports a Disclosable Matter to an Eligible Recipient may do so anonymously and still be protected under the Corporations Act.

A Discloser may also choose to remain anonymous while making a disclosure, over the course of any investigation into the disclosure and after any such investigation is concluded. A Discloser may also refuse to answer questions which they feel could reveal their identity at any time, including during follow-up conversations. However, a Discloser who wishes to remain anonymous should maintain ongoing two-way communication with Genex (or the external Eligible Recipient) so that follow-up questions can be made or feedback provided.

8. Legal Protections for Disclosers

The protections set out below are available under the Corporations Act to Disclosers who qualify for protection as an Eligible Whistleblower.

These protections apply not only to disclosures to an Eligible Recipient of Genex, but also disclosures to legal practitioners, regulatory bodies and public interest and emergency disclosures that are made in accordance with the Corporations Act.

8.1 Identity Protection

A Discloser is entitled to the protection of their identity and Genex is obligated under the Corporations Act to protect the confidentiality of a Discloser's identity.

The identity, or information which may lead to the identification of a Discloser must be kept confidential by Genex. This means that, Genex cannot disclose the identity of, or information identifying, a Discloser unless one of the exceptions below applies.

Exceptions:

If a person discloses the identity of the Discloser:

- (a) to ASIC or a member of the Australian Federal Police;
- (b) to a person or body as prescribed by applicable regulations; or
- (c) with the consent of the Discloser.

A person can disclose the information contained in a disclosure with or without a discloser's consent if:

- (a) the information does not include the discloser's identity;
- (b) Genex has taken all reasonable steps to reduce the risk that the discloser will be identified from the information; and
- (c) it is reasonably necessary for investigating the issues raised in the disclosure.

It is illegal for a person to identify a Discloser, or disclose information that is likely to lead to the identification of the Discloser unless one of the exceptions above applies.

If a Discloser wishes to lodge a complaint with Genex about a breach of confidentiality, a written complaint should be provided to the Company Secretary. A Discloser may also lodge a complaint with a regulator (such as ASIC, APRA or the ATO) for investigation.

8.2 Protection from detrimental conduct

It is a breach of this WB Policy and the Corporations Act for a person to cause, or make a threat to cause, detriment to a Discloser in relation to a disclosure because:

- (a) they believe or suspect that the Discloser has made, may have made, or could make a disclosure of a Disclosable Matter which qualifies for protection under the Corporations Act; and
- (b) that belief or suspicion is the reason, or part of the reason, for the person's conduct;

(Detrimental Conduct).

Examples of Detrimental Conduct include:

- (a) dismissal of an employee of Genex;
- (b) injury of an employee of Genex in their employment with Genex;
- (c) alteration of an Genex employee's position or duties to their disadvantage;
- (d) discrimination between an employee and other employees of Genex;
- (e) harassment or intimidation of a person;
- (f) harm or injury to a person, including psychological harm; or
- (g) damage to a person's property, reputation or business or financial position or any other damage to a person.

Detrimental Conduct does not include:

- (a) administrative action that is reasonable to protect a Discloser from detriment (e.g. moving a Discloser who has made a disclosure about their immediate work area to a different work area to prevent them from being exposed to Detrimental Conduct);
- (b) action taken by Genex to manage unsatisfactory work performance or which is in accordance with Genex's performance management procedures.

A Discloser who believes they have been subjected to Detrimental Conduct by reason of their status as a Discloser, or any other person who believes they have been subjected to Detrimental Conduct because they have participated in, or assisted with an investigation of a Disclosable Matter, should immediately report the matter to the Company Secretary or CEO. Where an incident of this nature occurs, an investigation and/or disciplinary action, in the absolute discretion of Genex, may follow.

8.3 Liability Protections

A Discloser is protected from any of the following in relation to their disclosure:

- (a) civil liability (e.g. any legal action against the Discloser for breach of an employment contract, duty of confidentiality or another contractual liability);
- (b) criminal liability (e.g. attempted prosecution of the Discloser for unlawfully releasing information); and
- (c) administrative liability (e.g. disciplinary action for making the disclosure);

(Liability Protections).

However, the Liability Protections do not grant immunity for any misconduct a Discloser has engaged in that is revealed in their disclosure.

8.4 Compensation and other remedies

A Discloser may also seek compensation and other remedies through the courts if:

- (a) they suffer loss, damage or injury because of a disclosure; and
- (b) Genex failed to prevent the person who caused the loss, damage or injury from causing that loss, damage or injury.

A Discloser is encouraged to seek independent legal advice in relation to compensation and other remedies.

9. Support and Practical Protection for Disclosers

Genex will take reasonable steps to support Disclosers and protect Disclosers from Detrimental Conduct. Such measures may be dependent on the circumstances as required to suit the particular circumstances of the Discloser.

A Discloser may also seek independent legal advice or contact regulatory bodies such as ASIC or the ATO if they believe they have suffered from Detrimental Conduct.

10. Handling and Investigating a Disclosure

10.1 Receipt of a disclosure

Where Genex receives a disclosure, Genex will need to assess the disclosure and determine whether:

- (a) the disclosure qualifies for protection; and
- (b) a formal, in-depth investigation is required.

10.2 Key steps in investigating a Disclosure

The key steps that Genex will take in investing a Disclosure are set out in **Annexure C**.

In the event that an investigation is undertaken into a disclosure, the manner in which any investigation is conducted may vary depending on the nature and circumstances of the disclosure.

If Genex decides that an investigation is appropriate, it will need to determine:

- (a) the nature and scope of the investigation;
- (b) the person(s) internally or externally who should lead the investigation;
- (c) the nature of any technical, financial or legal advice that may be required to support the investigation; and
- (d) the timeframe for the investigation.

There may be limitations on Genex's ability to properly conduct an investigation or make an assessment as to whether a disclosure requires investigation. Genex may not be able to undertake an investigation if it is not able to contact the Discloser (e.g. if the disclosure is made anonymously and the Discloser has not provided a means of contacting them).

Employees, contractors and consultants of Genex must cooperate fully with any investigation conducted.

10.3 Confidentiality

Genex recognises that maintaining appropriate confidentiality is important in ensuring that people come forward and disclose their knowledge or suspicions about a Disclosable Matter in an open and timely manner and without fear of reprisals or retaliation.

Genex cannot disclose information that is likely to lead to the identification of the discloser unless:

- (a) the information does not include the Discloser's identity;
- (b) Genex has taken all reasonable steps to reduce the risk that the Discloser will be identified from the information; and
- (c) it is reasonably necessary for investigating the issues raised in the disclosure.

Whilst Genex is committed to protecting the confidentiality and identity of Disclosers (where a Discloser chooses to remain anonymous), please be aware that people may be able to ascertain a Discloser's identity if:

- (a) they have previously mentioned to other people that they are considering making a disclosure;

- (b) they are one of a very small number of people with access to the information; or
- (c) the disclosure relates to information that a disclosure has previously been privately and in confidence.

10.4 Communications to the Discloser

Genex will acknowledge receipt of each disclosure received within a reasonable timeframe, provided that the Discloser can be contacted.

If the Discloser can be contacted, Genex will ensure that the Discloser is provided with regular updates in relation to their disclosure (for example, when an investigation is commenced, whilst in progress or upon completion), subject to the considerations of privacy and confidentiality of other persons or those against whom allegations are made. The frequency and timeframes for these updates may vary depending on the nature of the disclosure and the processes adopted in addressing the disclosure.

10.5 Outcome of Investigation

If an investigation is conducted by Genex, where possible a report will be prepared by the person leading the investigation which details the findings of the investigation. The method for documenting and reporting the findings may vary and will be dependent on the nature of the disclosure.

Relevant persons, including the Discloser, will be notified of the outcome of the investigation where appropriate in a manner which is deemed suitable by Genex (for example, in writing or in a meeting). There may be circumstances where it may not be appropriate to provide details of the outcome of the investigation to the Discloser.

11. Fair Treatment

Genex will endeavour, so far as reasonably practicable, to ensure the fair treatment of its employees who are referred to in a disclosure that qualifies for protection under the Corporations Act, including those that may be the subject of a disclosure. To assist Genex in achieving this:

- (a) disclosures will be handled confidentially, when it is practicable and appropriate in the circumstances;
- (b) each disclosure will be assessed;
- (c) the objective of an investigation will be to determine whether there is enough evidence to substantiate or refuse the matters report; and
- (d) an employee who is the subject of disclosure will be advised about the subject matter of the disclosure as and when required by the principles of natural justice and procedural fairness prior to any action being taken and the outcome of the investigation.

12. Independent Legal Advice

A Discloser may wish to seek independent legal advice in relation to the protections available under the Corporations Act.

13. Breach of WB Policy

Genex will continually monitor compliance with this WB Policy and will in its absolute discretion, determine to investigate any suspected breach. Genex retains the discretion as to how it addresses and investigates any suspected breaches of the WB Policy. If a breach is found to have occurred by an employee, contractor or consultant of Genex,

disciplinary action may follow up to and including termination of their engagement or employment with Genex.

14. Further Information

For further information on this WB Policy please contact the Company Secretary.

This WB Policy will be accessible by officers and employees of Genex through the Company's website at www.genexpower.com.au.

15. Duration of this Policy

This version of the WB Policy was introduced on 20 December 2019. It will be reviewed on a regular basis to ensure that it remains relevant and appropriate to Genex. It is a continuing process.

For the avoidance of doubt, this WB Policy may be applied, varied or withdrawn at any time at Genex's discretion and is not intended to form part of any contract or agreement between any person and Genex.

Annexure A – Reporting Procedures

Internal Reporting

Disclosures can be reported to the following persons internally at Genex:

- Any director of Genex.

External Reporting

Disclosures can be reported to the following persons external to Genex:

- the company secretary who is an external part time consultant to Genex.

Methods of Reporting – Internal and External

- Reporting can occur in person, through post, email or by telephone.

Annexure B – Regulatory Bodies

Australian Securities and Investments Commission (ASIC)

<https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/>

<https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/how-asic-handles-whistleblower-reports/>

Australian Taxation Office (ATO)

<https://www.ato.gov.au/general/gen/whistleblowers/>

Annexure C – Key Steps of Investigations

The below sets out the key steps that may be taken in relation to a disclosure made under this WB Policy.

Please be aware that the key steps below may be varied as required and at the sole discretion of Genex to suit the circumstances of the disclosure and the persons involved. If an external investigator is appointed or is conducting the investigation on Genex's behalf the external investigator may also vary the steps below at their discretion.

