Eales & Mackenzie

Est.1886

Legal and Corporate Advisors

PRIVACY POLICY

Dean A Jones & Richard J Mackenzie trading as Eales & Mackenzie ABN 83 902 873 847

Purpose of this Privacy Policy

Eales & Mackenzie is committed to protecting the privacy of personal information and handling personal information in accordance with applicable privacy, confidentiality and professional obligations.

This Privacy Policy is Eales & Mackenzie's privacy policy for the purposes of the Australian Privacy Principles under the *Privacy Act 1988* (Cth).

This Privacy Policy explains how Eales & Mackenzie collects, uses, stores and discloses personal information, including information collected for the purposes of complying with:

1. the Privacy Act 1988 (Cth) and the Australian Privacy Principles;
2. the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth) and associated Rules and guidance, as applicable to legal practices;
3. our professional obligations as an Australian legal practice; and
4. other applicable laws and regulatory requirements.

This Privacy Policy applies to personal information collected from clients, prospective clients, beneficial owners, directors, shareholders, officers, employees, witnesses, counterparties, suppliers, service providers and other individuals who interact with Eales & Mackenzie.

Key Terms

In this Privacy Policy

AML/CTF laws means the anti-money laundering and counter-terrorism financing laws of the Commonwealth of Australia, including the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth), regulations, rules and regulatory guidance.

Personal information means information or an opinion about an identified individual, or an individual who is reasonably identifiable.

Sensitive Information includes information about an individual's health, racial or ethnic origin, political opinions, religious beliefs, criminal record, biometric information and other categories of sensitive information under the Privacy Act.

Verification information means information collected to verify identity or satisfy AML/CTF requirements, including information from identity documents, biometric checks, electronic verification results, information about source of funds or source of wealth, and details of ownership and control structures.

Ultimate beneficial owner means an individual who ultimately owns or controls a client or entity, whether directly or indirectly.

Types of Personal Information We Collect

Eales & Mackenzie may collect personal information including:

1. name, date of birth and contact details;
2. residential, postal and business addresses;
3. occupation, employer and business details;
4. information from identity documents, including document type, document number, issuing country or authority, expiry date and verification outcome. In some circumstances, we may temporarily collect, sight or receive copies of identity documents, including but not limited to a driver licence, passport, Medicare card, birth certificate or other verification documents, where reasonably necessary for verification or another lawful purpose;

5. identity documents, including but not limited to driver licence, passport, Medicare card, birth certificate or other verification documents;
6. electronic identity verification results;
7. tax file numbers, Australian Business Numbers, Australian Company Numbers or Australian Registered Body Numbers, where relevant and lawful;
8. financial information, including bank account details, transaction details, source of funds and source of wealth information;
9. information about legal matters, transactions, disputes, assets, liabilities and family or business arrangements;
10. information about company, trust, partnership or other entity structures;
11. information about directors, shareholders, trustees, beneficiaries, officeholders, controllers and ultimate beneficial owners;
12. communications with us, including emails, letters, telephone calls and meeting notes;
13. billing and payment information;
14. website usage information, cookies and analytics data; and
15. any other personal information reasonably necessary for our legal services, client engagement, regulatory obligations or business operations.

Eales & Mackenzie will only collect personal information that is reasonably necessary for, or directly related to, our legal services, our professional obligations, our AML/CTF obligations, or another lawful function or activity. We will not collect AML/CTF information merely because it may be convenient to do so or on a “just in case” basis.

Eales & Mackenzie will only collect sensitive information where the individual has consented and the information is reasonably necessary for our functions or activities, or where collection is otherwise required or authorised by law, including for AML/CTF compliance, legal proceedings, dispute resolution or the provision of legal services.

AML/CTF Information We May Collect

To comply with AML/CTF laws, Eales & Mackenzie may be required to collect and verify information that may appear detailed, unusual or intrusive. This may include information about:

1. a client’s identity;
2. the identity of persons acting on behalf of a client;
3. the identity of directors, shareholders, trustees, beneficiaries, controllers or beneficial owners;
4. the ownership and control structure of a company, trust or other entity;
5. the nature and purpose of a matter or transaction;
6. the source of funds or source of wealth connected with a matter;
7. whether a person is a politically exposed person;
8. sanctions screening and risk assessment information; and
9. other information required to assess and manage money laundering, terrorism financing, sanctions and related risks.

These questions are asked to comply with Federal Government requirements and do not necessarily indicate any concern about a client or matter.

Where AML/CTF laws require or permit us to collect, use, disclose or retain personal information, Eales & Mackenzie may do so to satisfy its obligations as a reporting entity, including customer due diligence, ongoing due diligence, risk assessment, record-keeping, reporting and compliance obligations.

How We Collect Personal Information

Eales & Mackenzie may collect personal information:

1. directly from the individual concerned;
2. from a client, authorised representative, attorney, director, company officer, trustee, accountant, financial adviser or other professional adviser;
3. from publicly available sources, including ASIC, ABN Lookup, land titles offices, court registries and government databases;
4. from verification service providers, including **InfoTrack** and other electronic identity verification platforms;
5. from financial institutions, conveyancing platforms, courts, tribunals, government agencies or regulators;
6. from counterparties, witnesses, experts, barristers and other persons involved in a matter;
7. through our website, email systems, client portals and document management systems; and
8. through correspondence, telephone calls, meetings and electronic communications.

Where reasonably practicable, we collect personal information directly from the relevant individual. However, in legal matters and AML/CTF compliance processes, it may be necessary to collect information from third parties.

Where required by the Privacy Act, Eales & Mackenzie will take reasonable steps to provide a collection notice at or before the time personal information is collected, or as soon as practicable afterwards. A collection notice may explain why information is being collected, whether collection is required or authorised by law, the consequences if information is not provided, and the persons or organisations to whom information may be disclosed.

In some AML/CTF circumstances, Eales & Mackenzie may be prohibited from providing certain information if doing so would breach tipping-off, secrecy or other statutory obligations.

Use of InfoTrack and Other Verification Platforms

Eales & Mackenzie may use **InfoTrack** and other verification or legal technology platforms to conduct verification of identity, AML/CTF checks, document signing, searches and related processes.

Where InfoTrack or another service provider is used, individuals may be asked to provide personal information directly through that platform. This may include identity documents, photographs, biometric information or other verification information.

Information collected through InfoTrack or another platform may be used by Eales & Mackenzie to:

1. verify identity;
2. complete AML/CTF checks;
3. assess ownership and control structures;
4. confirm authority to act;
5. satisfy conveyancing, property, litigation, commercial or other matter requirements; and
6. maintain records required by law.

The handling of information by InfoTrack or another external platform may also be subject to that provider's own privacy policy and terms of use. Individuals should review the privacy policy, terms of use and any explanatory material provided by InfoTrack or the relevant service provider before completing the verification process.

Where an identity verification process involves facial matching, liveness detection or another biometric process, biometric information may be collected or generated. Biometric information is sensitive information under the Privacy Act. Where required, Eales & Mackenzie or its verification provider will seek consent before collecting or using biometric information. If an individual does not wish to complete biometric verification, Eales & Mackenzie may consider whether an alternative verification process is reasonably available, subject to our legal, professional and AML/CTF obligations.

Purposes for Which We Use Personal Information

Eales & Mackenzie may use personal information for the following purposes:

1. providing legal services;
2. assessing whether we can act in a matter, including conflict checks;
3. identifying and verifying clients and relevant individuals;
4. complying with AML/CTF laws;
5. assessing and managing legal, commercial, professional and regulatory risk;
6. communicating with clients and other relevant persons;
7. preparing legal documents, agreements, advices, court documents and correspondence;
8. conducting property, company, litigation, insolvency, estate, family, commercial or other searches;
9. managing trust money, payments, billing and debt recovery;
10. authorised AML/CTF service providers, sanctions screening providers and customer due diligence providers;
11. complying with court orders, subpoenas, notices to produce and compulsory legal processes;
12. complying with professional conduct rules and regulatory obligations;
13. liaising with barristers, experts, consultants, government agencies, regulators and counterparties;
14. managing insurance, professional indemnity and risk management requirements;
15. operating and improving our business, technology systems and client services;
16. training, quality assurance, audits and compliance reviews; and
17. any other purpose reasonably related to the above or permitted by law.

Disclosure of Personal Information

Eales & Mackenzie may disclose personal information where reasonably necessary for legal services, AML/CTF compliance or business operations, including to:

1. barristers, experts, consultants and other professional advisers;
2. courts, tribunals, commissions and dispute resolution bodies;
3. counterparties, opposing solicitors and other persons involved in a matter;
4. government agencies, regulators and statutory authorities;
5. AUSTRAC, where required or permitted by AML/CTF laws;
6. law enforcement bodies, where required or permitted by law;
7. banks, financial institutions and payment providers;
8. title offices, revenue offices, ASIC, the Australian Taxation Office and other registries;
9. verification service providers, including InfoTrack;
10. technology, cloud storage, document management, practice management and cybersecurity providers;
11. auditors, insurers, professional indemnity providers and risk management advisers;

12. debt collection agencies, where necessary for recovery of unpaid fees;
13. external service providers who assist with administration, archiving, printing, mailing, IT support and business operations; and
14. any person authorised by the client or by law.

Eales & Mackenzie does not sell personal information.

AML/CTF Reporting and Confidentiality

In some circumstances, AML/CTF laws may require Eales & Mackenzie to make reports or provide information to AUSTRAC or other authorities.

Where required by law, Eales & Mackenzie may be prohibited from informing a client or other person that a report has been made or that certain compliance actions have been taken.

This may include circumstances where disclosure would breach AML/CTF tipping-off, secrecy or related statutory obligations.

Nothing in this Privacy Policy limits Eales & Mackenzie's rights or obligations under AML/CTF laws, professional conduct rules, legal professional privilege, confidentiality obligations or any applicable law.

Legal Professional Privilege and Confidentiality

Eales & Mackenzie is subject to strict professional obligations of confidentiality. In many cases, communications and documents may also be protected by legal professional privilege.

Personal information will be handled consistently with those obligations. However, confidentiality and privilege may be subject to exceptions or limitations where disclosure is required or permitted by law, including under AML/CTF laws, court orders or compulsory notices.

Overseas Disclosure

Eales & Mackenzie may use technology, cloud storage, verification, communication or practice management service providers that store or process information outside Australia.

Eales & Mackenzie may disclose personal information to overseas recipients where we use technology, cloud storage, verification, communication, document management, cybersecurity, practice management or other service providers that store or process information outside Australia.

The countries in which overseas recipients may be located will depend on the service providers used from time to time. As at the date of this Policy, those countries may include Vietnam.

Where personal information is disclosed or stored overseas, reasonable steps will be taken to ensure that the information is handled in a manner consistent with Australian privacy requirements, unless an exception applies under the Privacy Act.

Security of Personal Information

Eales & Mackenzie takes reasonable steps to protect personal information from misuse, interference, loss, unauthorised access, modification and disclosure.

Security measures may include:

1. restricted access to client files and systems;
2. password protection and multi-factor authentication;
3. secure document management and practice management systems;

4. encryption and secure transfer methods where appropriate;
5. staff confidentiality obligations and training;
6. physical security for paper files;
7. secure destruction or archiving of records; and
8. cybersecurity monitoring and risk management procedures.

No method of electronic transmission or storage is completely secure. Eales & Mackenzie will take reasonable steps to manage data security risks.

Eales & Mackenzie maintains procedures for identifying, assessing and responding to suspected or actual data breaches. Where required by the Privacy Act, Eales & Mackenzie will notify affected individuals and the Office of the Australian Information Commissioner of an eligible data breach.

Retention of Personal Information

Eales & Mackenzie retains personal information for as long as reasonably necessary for the purposes for which it was collected, including:

1. providing legal services;
2. maintaining client files;
3. complying with professional obligations;
4. complying with AML/CTF record-keeping obligations;
5. managing legal risk, insurance and audit requirements; and
6. complying with statutory limitation periods and other legal requirements.

For AML/CTF purposes, Eales & Mackenzie will generally retain records of the identity verification process and the relevant information needed to demonstrate compliance, rather than retaining full copies of identity documents. Unless required or authorised by law, court or tribunal order, professional obligation, client instruction, or another permitted purpose, we will take reasonable steps to destroy or de-identify full copies of identity documents once they are no longer required.

When information is no longer required, Eales & Mackenzie will take reasonable steps to destroy, delete or de-identify it, subject to legal and professional obligations.

If Personal Information Is Not Provided

If requested personal information is not provided, Eales & Mackenzie may be unable to:

1. verify identity;
2. complete AML/CTF checks;
3. determine whether we can act;
4. commence or continue acting in a matter;
5. complete a transaction or provide legal services; or
6. comply with legal and regulatory obligations.

In some circumstances, Eales & Mackenzie may be required to decline instructions, cease acting or delay work until required information is provided and assessed.

This may include circumstances where the information is required to enable Eales & Mackenzie to satisfy Federal AML/CTF requirements.

Access to and Correction of Personal Information

An individual may request access to personal information held by Eales & Mackenzie about them.

An individual may also request correction of personal information if they consider it to be inaccurate, out of date, incomplete, irrelevant or misleading.

Eales & Mackenzie may need to verify the identity of the person making the request before providing access to personal information or making corrections.

Requests should be made in writing to:

Privacy Officer

Richard Mackenzie

Eales & Mackenzie

Level 5, 53 Queen Street

MELBOURNE VIC 3000

Email: dick@emlawyers.com.au

Telephone: 03 8621 1000

Access may be refused or limited where permitted by law, including where access would:

1. breach legal professional privilege;
2. prejudice legal proceedings or negotiations;
3. disclose information about another person;
4. breach confidentiality obligations;
5. reveal commercially sensitive information; or
6. otherwise be unlawful or unreasonable.

Website, Cookies and Analytics

Eales & Mackenzie may collect limited information when individuals use our website, including IP address, browser type, pages visited, time spent on pages and general usage information.

Our website may use cookies or analytics tools to improve website functionality, measure usage and enhance user experience.

We may use third-party analytics or technology providers to assist with website functionality, analytics, security and performance monitoring.

Users may disable cookies through their browser settings, although some website functions may not operate correctly.

Privacy Complaints

A person who has concerns about how Eales & Mackenzie has handled their personal information may contact:

Privacy Officer

Richard Mackenzie

Eales & Mackenzie

Level 5, 53 Queen Street

MELBOURNE VIC 3000

Email: dick@emlawyers.com.au

Telephone: 03 8621 1000

A complaint should include sufficient details to allow Eales & Mackenzie to understand and respond to the concern.

Eales & Mackenzie will acknowledge the complaint within a reasonable time and will endeavour to provide a response within 30 days, or such longer period as may be reasonable in the circumstances.

If a person is not satisfied with the response, they may contact the **Office of the Australian Information Commissioner**.

Office of the Australian Information Commissioner
GPO Box 5288
Sydney NSW 2001
Website: www.oaic.gov.au
Telephone: 1300 363 992

Changes to this Privacy Policy

Eales & Mackenzie may update this Privacy Policy from time to time to reflect changes in law, regulatory requirements, technology, business practices or the services we provide.

The current version will be available at www.emlawyers.com.au or on request.

Eales & Mackenzie will take reasonable steps to ensure that the published version of this Privacy Policy is current.

Contact Details

Questions about this Privacy Policy or the handling of personal information should be directed to:

Privacy Officer

Richard Mackenzie

Eales & Mackenzie

Level 5, 53 Queen Street

MELBOURNE VIC 3000

Email: dick@emlawyers.com.au

Telephone: 03 8621 1000