



Western Chan Fellowship CIO ("WCF")

Policy on Confidentiality

Summary of WCF policy on confidentiality

WCF policy on confidentiality is summarised as follows:

"Private communications to a senior member of the WCF, such as a retreat leader, interviewer, mentor or the Guiding Teacher of the WCF, ("a Senior") are presumed to be confidential. If, as a result of reflection, a Senior feels that silence will cause harm and greater good can be accomplished by revealing confidential information, then they must follow their conscience. Consultations with other Seniors are not a breach of confidentiality."

Exceptions to Confidentiality

WCF considers any information entrusted to a Senior as confidential. This includes not only information confided in formal interview or mentoring, but also information confided in more informal contexts provided that a reasonable person would consider that the information was of a private nature and that it was confided in good faith because of the role occupied by the Senior. As with any form of professional confidentiality, there are exceptions of which to be aware.

WCF is registered under the Data Protection Act 1998 and will not normally share any confidential information with anyone else. However, in some exceptional circumstances, UK law and natural justice limits the confidentiality of private communication which might be revealed, for example, as part of a health disclosure on a retreat booking application, or verbally to a retreat master or mentor in private interview. This limitation might arise in response to information that gives rise to concerns about risks to others (such as issues of child protection or violence against others), or about risk to the individual concerned (such as serious mental health problems). In such circumstances the person receiving such information should consult with a(nother) Senior before making a decision to disclose. The person in question would usually be informed and their consent sought before such disclosure. However, very rarely, there are circumstances in which WCF may find it necessary to disclose such information even without consent, if, for example, it seems that seeking consent might increase the risk of interference with legal process.

The main exceptions to Confidentiality and how they will be dealt with are:-

1. Consultation with other Seniors

The main exception to this confidentiality is consultations with other Seniors. A Senior must be free to discuss confidential material with his or her own mentor,

the WCF Guiding Teacher, or other mentors within WCF in order to gain the benefit of additional wise discernment on a situation. This will enable them to give better counsel to the confiding person in the future.

Further, there is an obligation to inform one or more of the Seniors, of confidential situations of which the Seniors have a need to know in order that they may be able to be of assistance to the confiding person and to the Sangha generally. If there is a concern about particular confidential information being shared with particular Seniors, these concerns should be discussed with a mentor or interviewer before confiding in that Senior(s), and a mutually acceptable arrangement made.

There is a strict obligation on Seniors that such discussions are only for the purposes stated here and are not shared in any casual or prejudicial manner.

2. Threat of Serious Harm to self or others

An exception, which occurs very rarely, arises when the confiding person reveals information about a situation which the Senior believes to be one of serious impending danger to the spiritual or physical well being of the confiding person or another and then the confiding person refuses to take responsible action to attempt to prevent that harm. In this case, when the impending harm is seen to significantly outweigh the harm that will be done by breaking confidentiality and when no other reasonable alternative is apparent, the Senior will do what they believe must be done. Except in dire emergencies, the Senior confided in will consult with another Senior before taking action under this exception. Such actions will be rare and will not be undertaken lightly.

3. Disclosures in the Public Interest

There are circumstances in which a Senior is required, in the public interest, to disclose personal information. Such disclosures will be extremely rare. Should such a situation arise, it is necessary to know what to do and how to proceed.

"The public interest" means anything affecting the rights, health, or finances of the public at large. Public interest is a common concern among citizens in the management and affairs of local, state, and national government. It does not mean mere curiosity but is a broad term that refers to the body politic and the public weal.

"The participant" is anyone participating in a WCF event or activity.

This can arise, e.g. :-

- Where failure to disclose personal information may expose the participant or others to risk of death, serious physical harm or serious psychological trauma.
- In a situation where the participant admits to a serious crime that has not been prosecuted or threatens to commit a serious crime.
- where the participant is suffering from severe mental illness and has revealed that they intend to take their own life imminently.

In general, these are the type of situations where the public interest outweighs the participant's privacy interest.

Personal information may either, with the participant's consent, be disclosed in the public interest to a third party such as Social Services, a Doctor or the Police or, in exceptional cases where the participant withholds such consent, and provided that the benefits to an individual or to society of the disclosure outweigh the public and the participant's interest in keeping the information confidential, such information may be disclosed without the participant's consent.

4. Guidelines for Disclosures in the Public Interest

WCF guidance on disclosure of personal information is as follows:

1. Keep a written record of any concerns, discussions and actions.
2. Wherever possible, if there is time and others are available, talk the matter over with at least one Senior or, preferably, arrange a group discussion with more than one other Senior. Sometimes it is useful to seek an opinion in principle from the agency (Police, Social Services Child Protection Team, Doctor) being considered for disclosing the information to. The agency can be contacted without disclosing the name of the participant or other individual(s) so that the concern can be shared, the situation discussed and that agency can advise as to whether they think they should receive the information.
3. Before considering whether a disclosure of personal information in the public interest would be justified, the Senior must be satisfied that the information being considered for disclosure is necessary for the purpose, and that it is not practicable to anonymise that information.
4. If disclosure is decided to be necessary, then, unless there are good reasons not to do so, the participant's consent should be sought. Seeking consent may not be feasible:
 - a. if the participant is not competent to give consent (due to their mental state at the time),
 - b. if the participant has been, or may be, violent,
 - c. because obtaining consent would undermine the purpose of the disclosure (e.g. disclosures in relation to a serious crime).

In all other situations, consent should be sought.

5. If consent is sought and the participant withholds it, they should be asked for the reason for their withholding such consent and, if reasons are provided by the participant, those reasons should be considered. A decision should then be made as to whether a disclosure in the public interest is still considered to be necessary.
6. In all cases where a disclosure of information without consent from the participant is considered, the possible harm (both to the participant, and to the trust vested in WCF) must be weighed against the benefits that are likely to arise from the release of information.
7. If, after such consideration, the view is still that disclosure without consent is necessary, consideration should still be given as to whether it is feasible to inform the participant that a disclosure will be made without their consent and act accordingly.

8. If, after all of the above, it is decided to disclose the information it should be disclosed promptly to an appropriate person or authority.

Complaints arising from the exercise of an exception

If a complaint is made about the disclosure of identifiable information with or without a person's consent, WCF will require an explanation and justification of such actions. A written record of all steps taken to seek or obtain consent and the reasons for disclosing information with or without consent, partly should be made to enable such decisions and actions to be explained at a later date.

Conclusion

Please consult with a mentor or interviewer in advance if there are concerns about disclosure for any of the reasons, or in relation to any of the matters, set out above.

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