

# Freya Newman: was she committing a criminal offence, or acting out in the public interest?

Freya Newman garnered significant support when she faced the [Downing Centre](#) facing charges after she hacked into the Whitehouse system and discovered that the scholarship given to Tony Abbott's daughter came about in dubious circumstances.

Working in her part time job as a librarian at the Whitehouse institute, the UTS student accessed the institute's system using the login details of another staff member.

She resigned immediately after uncovering the incriminating evidence.

The two sides of the debate are polarised: while many have expressed support and sympathy for Ms Newman, declaring her conduct should not even be liable to prosecution, the criminal justice system has another position.

Ms Newman has been charged with unauthorised access to restricted data, which is an offence under section [308H of the NSW Crimes Act](#).

Newman did not know she was breaking the law, let alone that her conduct would expose her to criminal charges and a maximum prison sentence of two years.

Ignorance of the law is no excuse, and police are pushing for a criminal conviction.

Ms Newman's lawyer argues that a conviction should not be recorded against her name, as she has already been punished enough by being in the public eye and the backlash she has

received.

While Ms Newman pleaded guilty, she has not yet been sentenced.

She will return to court on November 25 for sentencing.

Because the Whitehouse is not a public institution, Ms Newman is not protected by legislation that may otherwise have shielded her.

### **The Public Interest**

Public interest intersects with the criminal justice system in several places.

According to prosecution policies, people should not be prosecuted if it is not in the public interest to do so, and acting for the benefit of the public may therefore override countervailing considerations that might push for punishment.

Of course, whether or not revealing a particular piece of information is in the public interest is often subjective matter where different minds may come to different conclusions.

Some have argued that the 'scholarship', while questionable from a moral standpoint, was not illegal and therefore isn't the sort of thing that should be covered by whistleblower protection.

### **What is whistleblower protection?**

The idea behind whistleblower protection is to encourage those who see wrongdoing in the public sector taking place to come forward without having to risk their own jobs or other negative consequences.

Encouraging people to come forward means that wrongful behaviour is more likely be reported and appropriately

investigated.

Australia's protection of whistleblowers has been criticised as lagging in comparison with other G20 countries.

As the Newman case shows, those who divulge information about corruption at private institutions do not enjoy the same protection as public institutions.

Under the [Public Disclosure Act](#) 2013, public officers who report will be given anonymity and immunity both from civil and criminal liability as well as protection against any administrative action, including disciplinary action.

However, even the introduction of this law was not enough to allay all fears.

There are significant groups of people who are not protected, including those in the private sector and employees who are not public officers.

It is clear that there are policy reasons behind the decision to protect those who speak up and report wrongdoing, as well as policy reasons for limiting the protection.

As to the latter, the argument is that if the protection were too wide, privacy and commercial secrets could be unjustifiably compromised through unwarranted disclosures of trivial information.