



**Chadwick Lawrence**  
Yorkshire's Legal People

# COMPLETE PROPERTY SOLUTIONS

## Nuisance: are you looking?


Re: Fearn & ors v Board of Trustees of the Tate Gallery [2023] UKSC 4

A landmark decision has been reached in the Supreme Court. The iconic Tate Modern Gallery boasts a viewing platform on the tenth floor which provides the 500,000-600,000 visitors each year on average stunning panoramic views of the city. However, located just 34 metres from the platform are a series of expensive flats, with the platform also providing views into the living spaces of the flats.

Unsurprisingly, the residents of the flats issued a claim in private nuisance, seeking for the platform to be permanently closed. The High Court dismissed the claim, stating that whilst overlooking could amount to a nuisance the flat owners had opted to reside in a building with high glass ceilings and walls: therefore, the exposure to the public was self-induced. The flat owners appealed the decision and the Supreme Court has found in their favour: namely, the platform amounted to a substantial interference with the ordinary use and enjoyment of the flats. A number of key factual points underpinned the decision, including the following: -

- The high number of visitors to the Tate Modern Gallery on a daily basis and that the platform was used to take photographs.
- The viewing platform was not the primary purpose or ordinary use of the building as a gallery.

**For more information about how we can help you please contact:**

 [newenquiries-proplit@chadlaw.co.uk](mailto:newenquiries-proplit@chadlaw.co.uk)  0800 015 0340  [www.chadwicklawrence.co.uk](http://www.chadwicklawrence.co.uk)

 8-16 Dock Street, Bridge End, Leeds LS10 1LX

 @chadlawprop



Chadwick Lawrence  
Yorkshire's Legal People

# COMPLETE PROPERTY SOLUTIONS

The position of the Supreme Court was summarised by Lord Leggatt with the following analogy: *"it is not an answer to a complaint of excessive noise to say that the victim should buy earplugs."*


The decision represents the first time that the law has recognised that a visual intrusion can amount to an actionable nuisance. In theory, it could potentially impact all property owners whose property is overlooked by a new building. Despite the case being highly context specific and the Supreme Court confirming that situations in which this could be applied moving forward would be rare, developers and residential owners cannot ignore the potential risk moving forward.

If you have concerns regarding a potential nuisance at present or how the decision may impact you moving forward, please contact Andrew Dickinson on the following: -

TEL: 0113 225 8811

EMAIL: [AndrewDickinson@chadlaw.co.uk](mailto:AndrewDickinson@chadlaw.co.uk)

For more information about how we can help you please contact:

 [newenquiries-proplit@chadlaw.co.uk](mailto:newenquiries-proplit@chadlaw.co.uk)  0800 015 0340  [www.chadwicklawrence.co.uk](http://www.chadwicklawrence.co.uk)

 8-16 Dock Street, Bridge End, Leeds LS10 1LX

 @chadlawprop