



Andrew Francis

Call: 1977

He is exceptionally clever, can absorb an enormous amount of complicated information and presents clear and committed advice. On his feet, he is utterly superb.

LEGAL 500

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Andrew Francis' practice has a very strong emphasis on real property law. He is recognised as a leading authority on the law of restrictive covenants affecting freehold land, and on the law of rights of light. He has been instructed in many of the major cases in these areas of law in the last three decades.

Andrew is the author of a textbook on restrictive covenants, and a co-author of textbooks on rights of light and private rights of way.

Expertise

Professional Negligence

Andrew's experience in his fields of business and property work allows him to examine, advise upon and conduct claims where professional negligence issues arise. The areas of his expertise in easements and covenant law lead him to be instructed where there may have been negligence by professional advisers, such as counsel, solicitors, surveyors and valuers.

Property

The main areas of Andrew's expertise in the law of real property are restrictive covenants affecting freehold land, rights of light, rights of way and other easements, adverse possession, boundaries and party walls. His publications (see below) on the first three topics demonstrate his extensive knowledge and experience in these three fields. These are very much "niche" areas of work in which he is pre-eminent as a barrister.

In view of his standing, he may be asked to advise as a "single joint expert" for all parties. He will also act either as the mediator or be instructed as counsel for the parties in ADR. His recent experience, in view of modern practice, is that many parties engage in "informal" ADR, such as without prejudice, lawyers-only meetings. He is frequently advising on this means of settling disputes and

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encourages his instructing solicitors and clients to engage in constructive ADR. He is acutely conscious of the burden of legal and other fees in any litigation. When acting under Direct Access instructions, he is particularly keen to impress upon his clients the need to approach disputes this way wherever possible.

As will be seen below, his main area of work includes several specific fields of law and some additional arcane ones, such as Reverters of title under the School Sites Acts.

Whilst not an expert on planning and public law matters (and he frequently encourages the use of counsel where that is needed), Andrew is familiar with the general law of Town and Country planning and public law rules to the development of land and buildings and changes of use. He is also experienced in cases where private law rights are potentially subject to being overridden under s. 203 Housing and Planning Act 2016 and similar legislation. This is particularly relevant in rights of light matters.

It goes without saying that even where there is no dispute, his skill as a draftsman of documents in property matters reflects his long experience in this area of law and is consistent with his standing at the Chancery Bar.

He was a member of the Law Commission's Advisory Board on the reform of the law of easements and covenants which led to the Report and draft Bill published in June 2011. He was also a member of the Law Commission's Advisory Board, which examined the reform of rights of light and remedies for their breach, which led to the Report and draft Bill published in December 2014.

He has considerable and very recent experience both as an adviser and as an advocate in Claims in Court involving covenants and easements and in Applications in the Upper Tribunal (Lands Chamber) to discharge or modify restrictive covenants under s. 84(1) Law of Property Act 1925. He also has experience where disputes over restrictive covenants require a single Judge to decide them under different jurisdictions under the "double-hatting" procedure.

His work also includes advice and advocacy in registered land disputes in the First-tier Tribunal, Property Chamber, County Court, High Court, and higher Courts on matters such as covenants, boundaries, easements, adverse possession and other title issues.

As much of his work is either non-contentious or, if contentious, the dispute settles; his expertise is often not in the public domain. Because of his extensive experience in covenant and rights of light cases, he has comprehensive knowledge of City Centres (London, Leeds, Manchester, etc.) and their buildings and other locations, such as residential estates, both as regards the present and their development history. This means that he can recognise locations where he has worked before (often spotting potential conflicts of interest) or where Courts and Tribunals have previously decided cases affecting those locations.

Finally, much of Andrew's work is non-contentious, such as advising on covenants, easements, and other issues for clients who need pre-contract advice, lenders, and developers who need certainty on the effect of their proposals on third-party rights and insurance indemnity policies.

There are four main specialist areas in his property work:

- Covenants
- Easements
- Boundaries & Land Registration
- Party Walls

Covenants

As stated above, within the field of restrictive covenants affecting freehold land, he has specific expertise in disputes over the enforceability of restrictive covenants and claims to enforce them in Court. His work includes applications to discharge or modify such covenants in the Upper Tribunal (Lands Chamber) under s. 84(1) Law of Property Act 1925. In this, he has long-standing and

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strong professional links with expert surveyors, valuers and town planning consultants who may be expert witnesses in these disputes.

He advises on the validity and enforceability of trading covenants within Chapters I and II of the Competition Act 1998 and under the principles relating to unlawful restraint of trade.

When instructed in matters relating to restrictive covenants and other property rights and obligations, he works closely with the specialist Indemnity Insurance market, where he is asked to advise and, in contested claims, represent the insurer or the insured. In many other cases, he will advise insurers and brokers on the risk of claims before Indemnity Policies are issued. Finally, his advice is often used (on a non-reliance basis) by clients who are seeking indemnity insurance for covenants and other risks to ensure that the development is marketable.

Easements

The same involvement applies to rights of light matters, where rights of light surveyors are critical to assessing losses. In this area of practice, he has long-standing and strong professional links with expert surveyors, valuers and town planning consultants who may be expert witnesses in these disputes.

As is the case with his work in covenants matters, he works closely with the specialist Indemnity Insurance market, where he is asked to advise and, in contested claims, represent the insurer or the insured. In many other cases, he will advise insurers and brokers on the risk of claims before Indemnity Policies are issued. Finally, his advice is often used (on a non-reliance basis) by clients seeking indemnity insurance for rights of light and other risks to ensure the development is marketable.

Boundaries

Both advisory and contentious work, where boundaries, title ownership, such as adverse possession issues and other matters where specialist knowledge of the land registration system is required, is a significant part of Andrew's practice.

Party Walls

Andrew's experience in Party Wall work is well established. As a long-standing member of the Pyramus and Thisbe Society for many years (this being the learned Society that brings together specialists from all professions engaged in Party Wall and related matters), he has extensive knowledge of this technical area of property law.

Generally

In these and all his other cases, his key aim is to ensure good teamwork with the client and all those engaged on the client's behalf, whatever their role.

Recent Cases

- *Fenech v Hambridge Investments Ltd* [2025] (The County Court at Central London, HHJ Dight CBE, 18th February 2025) – Judgment in claim to enforce restrictive covenants over Defendant's development site. The judgment deals with declaratory relief regarding the enforceability of the covenants, the remedy of an injunction for breach, and (obiter) the assessment of damages in lieu of the injunction restraining further work on the development was not properly granted. The judgment contains observations on how covenants can bind the owners of the burdened land, even if they are not expressly noted on

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the register of title to that land.

- *Gow-Wright v Law & Ors* [2024] B&Pct. (Ch D) – Declaration granted under s. 84(2) Law of Property Act 1925 declaring restrictive covenants (which would otherwise have impeded the development of the Claimants' land) unenforceable by virtue of the absence of any evidence of their benefit to defined or ascertainable land. *Bath Rugby Ltd v Greenwood & Ors*. [2022] (Court of Appeal) applied.
- *Kay v Cunningham & Nix* [2023] UKUT (LC) – Application to modify user covenant to allow limited use of historic mansion house in rural Derbyshire for bed and breakfast accommodation, with consideration of the effect of “nuisance and annoyance” covenant remaining unmodified as outside the Application.
- *Collins v Howell* [2022] UKUT 72 (LC) – This was an Application to modify a restrictive covenant under s. 84(1)(aa) Law of Property Act 1925, to enable a manège (sand school for horse riders) to be built on a field in rural Devon. The Application was refused because the manège would interfere with the Objectors' enjoyment of their view over the field. This was also a case in which the County Court Claim made by the Objectors for an injunction was stayed pending the determination of the s. 84(1) Application was heard at the same time as the hearing of the latter under the “double hatting” procedure. This is an important case not only as an example of the effective use of the latter procedure, but also because it shows that even in rural areas, restrictive covenants have as much potential importance as in built-up areas, suburbs and high-class estates.
- *Moskofian v Foster & Ors*. [2021] UKUT 214 (LC). The application to modify a restrictive covenant over land at Ealing, West London, under s. 84(1)(aa) Law of Property Act 1925, allowed on terms as to payment of compensation to the Objectors and to regulate one aspect of the implementation of the proposed development.
- *Father's Field Developments Ltd v Namulas Pension Trustees Ltd* [2021] UKUT 169 (LC) – The application to modify a restrictive covenant over land at Earls Colne, Essex, under s. 84(1)(aa) Law of Property Act 1925, allowed without the payment of any compensation to the Objector. The Tribunal rejected the Objector's case that compensation under this jurisdiction could be awarded on the “negotiating damages” or “release fee” basis under s. 84(1)(i) of that Act, and it found that the evidence did not support compensation based on s. 84(1)(ii) thereof. That was so, even where the parties to the application were the original covenanting parties, the covenant was only 20 years old, and it was a qualified one.
- *The Incorporated Trustees of the Congregation of the Holy Spirit and the Immaculate Heart of Mary (British Province) v Antill & Anor*. [2020] EWHC 3466 (Ch) (High Court, Business & Property Courts of England & Wales.) – Declarations as to the non-enforceability of restrictive covenants affecting freehold land in Bromley imposed before and after the commencement of the Law of Property Act 1925.
- *Briant v Baldacchino* [2020] (Upper Tribunal (Lands Chamber)) – The application to modify a restrictive covenant over land at Wimborne, Dorset, was refused where the importance of the effect of different planning consents on the application land and their impact on the objector's property was stressed.

Competition Law

The interface between restrictive covenants over land in England and Wales, which restrict competition, and the Competition Act 2008 requires Andrew's advice to be sought on such covenants. These covenants may be void under the relevant law now in force since 6th April 2011. His advice is regularly sought when the validity of covenants restricting trading in shopping centres and out-of-town “super store” sites is being considered. His consideration of the ECJ decision in *Groupement des cartes bancaires* (September 2014) as applicable to land agreements potentially within Chapter I Competition Act 1998 has been published in the *European Law Reporter* (2014 no. 12). Competition law and the effect of that law on land covenants in England and Wales has not changed to any real extent post-BREXIT. Chapter 21 in the current (5th) edition of Andrew's book on restrictive covenants (see under publications) deals with this aspect of land law.

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Direct Access

Andrew is authorised by the Bar Standards Board to accept instructions under the Public Access rules.

Testimonials

"He is exceptionally clever, can absorb an enormous amount of complicated information and presents clear and committed advice. On his feet, he is utterly superb."

Legal 500

"Andrew wrote a very good book on restrictive covenants so is very knowledgeable."

Chambers & Partners 2026

"He is a top man in restrictive covenants."

Chambers & Partners 2026

"Andrew is very strong on rights of light and is exceptionally analytical and bright."

Chambers & Partners 2025

"Andrew is a very well-respected figure in rights of light property disputes."

Chambers & Partners 2025

"A superb advocate and the amount of work he does is phenomenal."

Chambers & Partners 2024

"Andrew is strong on rights of light and restrictive covenants."

Chambers & Partners 2024

"He is very knowledgeable."

Chambers & Partners 2023

"'The restrictive covenant king' and 'he is the guru of rights of light'."

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Chambers & Partners 2022

"He has thorough knowledge of the law, offers practical suggestions and deals with instructions very quickly."

Chambers & Partners 2022

"As well as being hugely knowledgeable, he was responsive and delivered commercial advice."

Chambers & Partners 2021

"Very helpful, good with clients and very easy to pick up the phone and have a chat to."

Chambers & Partners 2021

"A highly regarded junior."

Legal 500 2021

"Andrew is absolutely authoritative in his expertise and experience in the law and practice of land covenants and real property generally."

Legal 500 2021

"He is very precise and measured."

Chambers & Partners 2020

"His strengths are his depth of knowledge coupled with his ability to get points across very well."

Chambers & Partners 2020

"He has a real grasp of property law and the technical aspects of real property disputes."

Chambers & Partners 2020

Appointments

- A Bencher of Lincoln's Inn
- Associate Tenant at Trinity Chambers, Leeds

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Recommendations

- Real Estate Litigation (Chambers & Partners 2024)
- Private Client: Trusts and Probate (Legal 500 2022)
- Property Litigation (Legal 500 2025)

Publications

Articles

- **"I can see clearly now..."** Article on rights of Light judgment in *Cooper v Ludgate House Ltd.* (New Law Journal, 8th August 2025.)
- **"100 not out"**. Celebrating the centenary of the 1925 property, trusts, succession and estates legislation. (New Law Journal, May 2025.)
- **"What lies beneath."** Examining two judgments on subterranean property problems. (New Law Journal, September 2024.)
- Modifying restrictive covenants – when the greenlight can turn red. Landlord and Tenant Review 2024, August. 28[4]. 160-164 "Beware the Boiler Plates" (*Mackenzie v Cheung*). New Law Journal, April 2024.
- **"Where planning law meets restrictive covenants"**. New Law Journal, February 2024.
- "Two recent cases on restrictive covenants." Law Society Gazette, November 2023.
- **"A good man always knows his limitations."** Three recent judgments on limitations of claims, New Law Journal, September 2023.
- **"All the world's a stage."** Private nuisance cases and knotweed, New Law Journal, May 2023.
- **"The meaning of words. What do they mean?"** Law Society Gazette, April 2023.
- **"The nuisance next door."** *Fearn v Board of Trustees of the Tate Gallery* and the Supreme Court's judgment, New Law Journal, February 2023
- **"Property experts: the key to victory?"**, New Law Journal, April 2022.
- **"Bath Rugby win at home,"** New Law Journal, February 2022.
- **"What is it worth"**, New Law Journal, October 2021.
- **"Avoiding the Stigma of Cynical Breach. What can we learn from the Supreme Court's judgment in *Alexander Devine Children's Cancer Trust v Housing Solutions Ltd.*?"** (New Law Journal) (November 2020)
- **"Compare & Contrast: three lessons from the courts on covenants"** – (New Law Journal) (June 2020)
- **"Trouble with rights of light"** – (New Law Journal) (April 2020)
- **"Seeing the light through the trees"** – (New Law Journal) (May 2019)
- **"The impact of the Morris-Garner and another v One Step' (Support) Ltd"** – (*Estates Gazette*) (May 2019), a joint article with Emma Humphreys from Charles Russell Speechlys Law

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Books

- 'Restrictive Covenants and Freehold Land – a Practitioner's Guide' (LexisNexis) (5th Edn., 2020). New 6th Edition planned for early 2026.
- 'Rights of Light – The Modern Law' (LexisNexis) (3rd Edn., January 2015) (with Stephen Bickford-Smith and Tom Weekes). New 4th Edn., with Tom Weeks KC and Christopher Stoner KC, due December 2025.
- 'Private Rights of Way' (Jordans) (1st Edn., 2012) (Andrew Francis and three Co-Authors).
- Until February 2024, 'Inheritance Act Claims' (LexisNexis) (Looseleaf: updated twice-yearly) with Miranda Allardice, Keith Gordon and Charles Holbech.

Memberships

- Chancery Bar Association
- Property Bar Association
- Pyramus & Thisbe Society
- Former member of Ministry of Defence Research Ethics Committee
- Former appointee to the Independent Scientific & Technical Advice Register (ISTA) (Ministry of Defence)
- Former member of Law Commission's Advisory Board on Rights of Light Remedies Reform

Education & Qualifications

- MA (1998)
- First Class Honours in Jurisprudence, Keble College, Oxford University (1976)

BSB Registration

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