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# Property

**Property lawyers act for a variety of domestic and international clients – including property investors and developers, farmers, governments, landowners and public sector bodies – on a wide range of transactions and disputes, involving everything from offices and housing to retail developments and industrial units. The common legal issues arising for commercial property lawyers include acquisitions and disposals of land, investments, landlord and tenant matters, developments and contracts, and environmental law and associated liabilities.**

Like his namesake, the father of modern economics, Adam Smith took a measured and well-thought out approach to his future career: “I was always interested in law and had done some work experience at school. I went on to do several mini-pupillages, which definitely encouraged me towards the Bar. I liked the idea of being self-employed, as it would give me more direct control over my career. I also thought that, as a litigation solicitor, it might be frustrating to get to know a case well, and then, potentially, have to refer it on to someone else to provide advice on the key issues. I was also drawn to the day-to-day nature of the work: the advocacy, providing advice on merits and tactics, and preparing pleadings and skeleton arguments – it all appealed.”

Pupillage at 9 Old Square offered Adam solid insight into the realities of the profession, especially by virtue of having four separate pupil supervisors, all with different practices: “It was useful to see how my pupil supervisors worked and presented things, and, although it was an intense time, they made it as stress-free as it could be.” He joined as a tenant at the end of 2002 and the set merged with Maitland soon thereafter.

## Property matters

Today, property is a large part of what Adam’s practice is about. He describes a handful of the

varied cases he has dealt with recently: “My Gibraltar-based client had provided finance to two BVI companies backed by a number of charges over English properties; the borrowers defaulted, and there was an underlying dispute over the terms of the loan agreements and whether they had been varied. It was a commercial dispute, but the focus of the trial was the alleged release of a major part of the security and whether the client had bound itself to that in return for a part-payment. There were technical points about mortgages and a large amount of disputed evidence. Another involved a wealthy family that owned a large portfolio of commercial and residential properties on a fairly informal basis; they had fallen into disagreement with each other and the ownership of the properties was in dispute – it was in large part a fight over who had said what.”

Acting as junior to an eminent silk in the House of Lords was a career highlight for Adam, especially as the case concerned “issues that were of some significance to a lot of property owners; the committee, unsurprisingly, quickly got to the heart of the issues and asked some very probing questions.” A notable arbitration relating to a metal-producing business, post-Soviet break-up, also stands out: “Our client had been involved in the management of the business. There had been a management buy-out, with external investment, and the dispute was between the external investor and our client. The ultimate investor was a well-known oligarch with all the financial and political cards in his favour. But we achieved a good result for the client, so that was very satisfying.”

## Pros and cons of self-employment

Referring back to one of his original reasons for choosing the Bar, Adam cites the freedom of self-employment as one of the best features of the job: “Although it may sometimes be illusory, if a gap in your diary opens up (for example, a case has just settled) and you want to take advantage of that by getting away, you are able to do it –



Name: **Adam Smith**  
Chambers: **Maitland Chambers**  
University: **University of Oxford**  
Undergraduate degree: **Classics**

there's no checking in with the boss. When you're involved with a case and something needs to be done, obviously that has to happen; but, to a certain extent, when you take a case it's your decision to do so." The ability to make a real difference through your work and the keen intellectual challenges are other draw-cards: "Very many cases throw up interesting problems, so there's nearly always something to think about. It's also satisfying to see what we do having a direct impact – if you win a case for an individual, for whom it has been the last throw of the dice, it's personally very significant."

There is no denying, however, that this career can be all-consuming at times. "That can be good and is part of the excitement of it – we are very invested in it; but, at the same time, your personal life can suffer as a result," he admits. "I've had to work through holidays and frequently cancel plans. There is often a lack of predictability, so that all of a sudden something needs to be done urgently, such as seeking an interim injunction. You can also be under a lot of pressure, particularly close to and during trial. As you get more experienced, you become more comfortable with being in that position and working out how to juggle things."

Adam reflects on how life at the Bar is evolving, both in his own field and elsewhere: "Commercial property work is unlikely to change much in the next few years, other than (in terms of its volume and the nature of disputes and issues which arise) as a result of general economic forces; the biggest upheaval is occurring at the criminal Bar, with major structural changes to publicly funded work. One change that has already occurred generally at the Bar is increased specialism. Less and less you see people with a general common law practice – clients appear to be increasingly keen to be advised and represented by a barrister who is a specialist in the relevant field."

### **Commitment is key**

So what makes for an excellent property barrister? According to Adam, it is broadly the same set of skills you would mark as essential in any civil area of law: "Commitment to the job is essential; the most successful barristers make themselves available to clients and are constantly looking for the best angle to achieve the client's objectives. Analytical ability and knowledge of the law are key. There is often a large amount of information involved, so you need to be able to distil that into the far smaller amount of critically relevant information. You need advocacy skills, both oral and written; a lot of work goes into written as well as oral advocacy. If you can get a judge on your side even before the hearing has started with a good skeleton argument, a significant proportion of the hard work is done. You also need good people skills – the ability to get on with both professional and lay clients, to be pleasant and easy to work with, and to inspire confidence."

Adam suggests that the first steps on the path are to do well in whatever undergraduate degree you have chosen – "proving your analytical ability and ability to sift information is possible in all or nearly all degrees" – and to complete perhaps five or six mini-pupillages in the practice areas that you are interested in. "In addition, you need to show an interest in advocacy, so debating or mootng as a law student, or other public speaking, is particularly important."

His final tips include joining an Inn as soon as you've decided that the Bar is for you, because it is "a great opportunity to meet people, do some mootng and explore funding options through Inn scholarships". He also suggests trying a vacation scheme with a solicitors' firm, as a way of "understanding the day to day work of a litigation solicitor and the pressures that they can work under and demonstrating that you've made a well thought-out decision to join the Bar as opposed to qualifying as a solicitor".