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## INFORMATION SHEET C12

**Laying an information – how to  
prosecute someone in a magistrates’  
court for a criminal offence on a town  
or village green**

## Contents

1.	Laying an information	Page 3
2.	Examples of encroachments	Page 4
3.	What is an information	Page 4
4.	How do I lay an information	Page 4
5.	What evidence do I need to bring an action?	Page 5
	What happens next	Page 6
6.	Further Information	Page 7

## Laying an information

If you wish to prosecute someone for a criminal offence on a town or village green, an information must be laid before the local magistrates' court by an inhabitant of the parish. Commons Act 1876 s29 and Inclosure Act 1857 s12.

1. Under section 29 of the Commons Act 1876, together with section 12 of the Inclosure Act 1857, any person who -
  - a. makes any encroachment on, or enclosure of a town or village green or a recreation ground (as allotted by an inclosure award), or
  - b. makes any erection on, disturbance or interference with that green or ground otherwise than for its better enjoyment for its proper purpose,may, on the information of any inhabitant of the parish in which the green or ground is situated, be summarily convicted by the magistrates' court and fined at level 1 on the standard scale.
2. These illegal actions are also deemed to be a public nuisance, which is a common law offence restrainable by an action of the Attorney General.

## Examples of encroachments on town or village greens

3. Unlawful parking, nuisance, erecting equipment, fencing, any building development, creating tracks across the green.

## What is an information?

4. An information is a statement made by the complainant person by which a magistrate is informed of the offence for which a summons or warrant is required.

## How do I lay an information?

5. The information should be in writing.
  - a. It should give the name and address of the person (or persons) who are allegedly guilty of this offence against whom the information is being laid, and the name and address of the person laying the information (often called a complainant).
  - b. The information should describe the alleged offence, in clear language. Legal language need not be used, ordinary language will suffice.
  - c. The time and place of the alleged offence should be given, with as much particularity as possible.

- d. The statute under which the alleged offence arose should be stated. For example, nuisance under the Inclosure Act 1857 s12, or unlawful parking under Road Traffic Act 1988 s34(1).
- e. The alleged offence must have happened within the last six months.
- f. If the alleged offence is a continuing one, for example a nuisance or obstruction or encroachment, then any act within the last six months will suffice. If the alleged offence was completed or terminated more than six months ago, then the information would be invalid.
- g. The information must be laid by the complainant person, or by solicitor or counsel or other agent authorised by him. If the complainant person authorises an agent to act for him this authorisation should be in writing and signed by the complainant person. The complainant person and agent must be expressly identified and named.

*For example:* An information can be laid by Mr A, on behalf of Mr B, and duly authorised to that effect. Mr A could present the case to the court, and call Mr B as a witness.

### **What evidence do I need to bring an action?**

- 6. The person bringing the prosecution should prepare a full witness statement of his own evidence, obtain full statements from any witnesses he may have, and submit copies of both along with the information to the court.

## What happens next?

7. The information does not need to be sworn.
  - a. The information should be sent or hand delivered to the Clerk to the Justices at the Magistrates' Court for the area in which the town or village green is located.
  - b. The Clerk to the Justices will then issue a summons if satisfied that the information is in order. A summons is a citation for the alleged offender to appear before a magistrate on a given date.
  - c. If the case comes to court then evidence will need to be given on oath in the ordinary way by the complainant person bringing the prosecution, any witnesses and the alleged offender. If the alleged offender is found guilty of this offence and convicted he is liable to a fine in accordance with Criminal Justice Act 1982 (ss 37, 38, 46).

## Further Information

Magistrates' Courts Act 1980 s1.

Magistrates' Courts Rules 1981

SI 552, rule 4

Commons Act 1876 s29.

Inclosure Act 1857 s12.

Road Traffic Act 1988 s34.

*The Open Spaces Society has endeavoured to state the law correctly but is unable to accept liability for any misinterpretation of the law or any other error or omission in the advice in this paper. The local Clerk to the Justices will usually give informal advice on how to proceed. In any particular case it may be sensible to seek the advice and assistance of a local solicitor.*

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