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Analytical Services Group

Mortgages: Actions for possession bulletin

January to March 2019

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R Martin

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Produced by Analytical Services Group,
Department of Justice.

For further information write to:

**Analytical Services Group,
NI Courts and Tribunals Service,
4th Floor, Laganside House,
23-27 Oxford Street,
Belfast BT1 3LA**

Telephone: 028 9072 8928

e-mail: richard.martin2@courtsni.gov.uk

This bulletin is available on the Internet at:

<https://www.justice-ni.gov.uk/publications/nicts-mortgages-action-possession>

EXECUTIVE SUMMARY

- This bulletin provides statistics for cases received (i.e. writs and originating summonses issued), cases disposed and final orders made in respect of mortgages in the Chancery Division of the Northern Ireland High Court for the period January to March 2019 and commentary on trends observed for this quarter in each year from 2007. During the period January to March 2019:
- There were 422 mortgage cases received (writs and originating summonses issued), a 77% increase from the same period in 2018 (239). This is the largest volume of cases received during the January to March quarter since 2014.
- There were 112 mortgage cases disposed of between January to March 2019, a 32% decrease from the same period in 2018 (164) and the lowest number of mortgage cases disposed during this quarter since the time series began in 2007.
- There were 113 orders made between January to March 2019, a 31% decrease from the same period in 2018 (164).

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1. INTRODUCTION

Mortgage cases are dealt with in the Chancery division of the High Court, which sits at the Royal Courts of Justice in Belfast. They relate specifically to properties or land owned at least in part with a mortgage. In cases where the owner (defendant/respondent) defaults on their mortgage payments, the lender (claimant/plaintiff) initiates legal proceedings for an order of possession of the property. Similar cases relating to the possession of rented land or properties are dealt with through Ejectment proceedings in the County Court.

People can get into housing debt for a variety of reasons:

- Change in circumstances like job loss, reduction in working hours, sickness or relationship breakdown
- Accessing high-cost credit/ mortgages from non-traditional lenders and securing it on their homes
- Over-borrowing during the property boom

Most actions begin with the issue of originating proceedings by the claimant against the defendant. The case will be heard by a Master who will issue an order on the basis of the evidence provided. A variety of orders may be made including a:

- Possession Order
- Suspended Possession Order
- Suspended possession combined Order
- Declaration, Sale and Possession Order
- Strike Out Order
- Dismiss Order
- Other Order

In some complex cases, a High Court Judge will hear the case and issue the court order(s).

Not all writs and originating summonses lead to eviction or (re)possession, even in cases in which a possession order is made. For example, a plaintiff begins an action for an order for possession of property. The court, following a judicial hearing, may grant an order for possession. This entitles the plaintiff to apply to have the defendant evicted. However, even where an order for eviction is issued the parties can still negotiate a compromise to prevent eviction.

In the event where a plaintiff receives a possession order and wishes to enforce the order, they may make arrangements with the defendant to re-possess the property. In circumstances in which the defendant refuses to either engage with the plaintiff or leave the property the plaintiff may enforce the order through the Enforcement of Judgments Office. Data on the number of repossessions of properties completed by the EJO are published in table G.3 of the annual Judicial Statistics publication¹.

The NICTS produced guidelines for lenders known as '*Pre-Action Protocols for Mortgage Possession Proceedings*'². They have been in operation since October 2009 and were revised in August 2011. The Protocols ensure that possession action against homeowners is taken only as a last possible resort.

¹ Northern Ireland Courts and Tribunal Service, 2018. *Judicial Statistics 2017*. [pdf]. Northern Ireland Courts and Tribunals Service. Available at: <https://www.justice-ni.gov.uk/publications/nicts-judicial-statistics>

² Northern Ireland Courts and Tribunals Service, 2011. *Revised Pre Action Protocol for Repossession Proceedings*. [pdf]. Available at: <https://www.justice-ni.gov.uk/articles/information-repossession>

2. METHODOLOGY

2.1 Data sources

Information contained in this bulletin is sourced from data that are inputted onto the Integrated Court Operations System (ICOS). This system was implemented across the Northern Ireland Courts and Tribunals Service (NICTS) over a two-year period from 2005 to 2007. While ICOS was introduced in the High Court during 2005, data derived from ICOS has been used as the source for official government statistics since 2007, when the implementation of ICOS across all court tiers was completed. ICOS is a live operating system used in each court tier to process every part of court business, from receipt of payments through to the production of final orders made. The data are input into this system on a daily basis by court clerks, and this information is checked and confirmed by another member of staff to ensure the data entries are correct.

2.2 Methodology for generating data

Analytical Service Group (ASG) statisticians based within the NICTS take a download of High Court information from ICOS on a monthly basis. The information is downloaded using a package called SharePoint, which extracts all the relevant data from ICOS into text files which are refreshed with up-to-date information each weekend. The text files are downloaded onto a secure internal facility that only specified statistical personnel have access to. The data contained in the files are identified only by numbers and names and addresses are not held. These statistical files are not transmitted outside the NICTS statistical team. ASG statisticians based in the NICTS import these data into the Statistics Package for Social Sciences (SPSS). SPSS is then used to perform extensive data validations to identify potential errors in the data and to ensure the data are reliable and robust.

2.3 Baseline and Time period

Data contained within this bulletin relates to the current calendar year, 2019, and the time series for this information dates back to 2007, when ICOS was adopted as the source for official government statistics. However, within this publication, comparisons of trends are viewed over a 10-year period.

2.4 Frequency of Publication

This bulletin is published on a quarterly basis. The next bulletin will cover the second quarter of 2019 and will be published on 16th August 2019.

2.5 Data quality and validation

ASG statisticians based in the NICTS have invested significant time and effort creating an extensive computer programme within SPSS to validate the information downloaded from ICOS. The programme includes over 100 checks against downloaded High Court data to: (i) check consistency over time and between variables; (ii) assess reliability of data using logic checks; (iii) check that variables fall within accepted ranges; and (iv) check with the ICOS Support Team in the event of any major discrepancies occurring since the last download. The validation program produces user friendly tables highlighting the potential problems which are circulated to the High Court as a validation report.

The High Court has staff who are responsible for: monitoring accuracy levels on ICOS, by carrying out sample checks on data entry and court resulting; ensuring all validations on ICOS and manual statistics returns are completed in a timely manner; providing advice and identifying training needs; monitoring the confirmation of ICOS court resulting, including the inputting of adjournment codes; and promoting awareness of the impact error can have, its wide ranging consequences and the negative impact on the reliability of management information.

The staff are given a two-week period from the date the validation report issues to have all records amended on ICOS. This ensures that the corrections are updated before the next download of files. After the files have been refreshed each weekend, all the data are then downloaded again, with the new download reflecting amendments made as a result of the validation reports. If any errors have not been corrected, they will continue to appear in the validation reports until the necessary amendments are made on ICOS.

The NICTS statistics team then ensure that all validations relating to the reporting period are amended prior to publication. Once these amendments have been checked, SPSS syntax programming is then used to generate the tables in the publication.

Data contained in this bulletin are currently provisional and will undergo further validation before being published in their final form in the 2019 edition of Judicial Statistics (due to be published on 26th June 2020).

2.6 Counting rules

Receipts are counted from the date the case is entered onto ICOS and the fees are receipted. Disposals are counted from the result date that a final order was made against the case, or the date an applicant withdraws or discontinues their application prior to the hearing, changing the case status to 'dealt with'.

2.7 Interpreting trends

Care should be taken when comparing data trends before and after 2005, when ICOS was introduced as the source for the majority of High Court data. For further advice on differences in data between years, please contact the statistician responsible for this bulletin.

2.8 Revisions

Any revision to data will be applied in light of the ASG (NICTS) Statistical Note '*Policy Statement on Revisions*'³ which may be found on the NICTS Statistics and Research Publications section of the DoJ website. Incorrect figures or changes to this publication will be published on the web in a formal Statistical Notice⁴.

³ Department of Justice, 2013. *Statistics and Research: Policy statement on Revisions*. [pdf] DoJ. Available at: <https://www.justice-ni.gov.uk/publications/statistics-and-research-policy-statement-revisions>

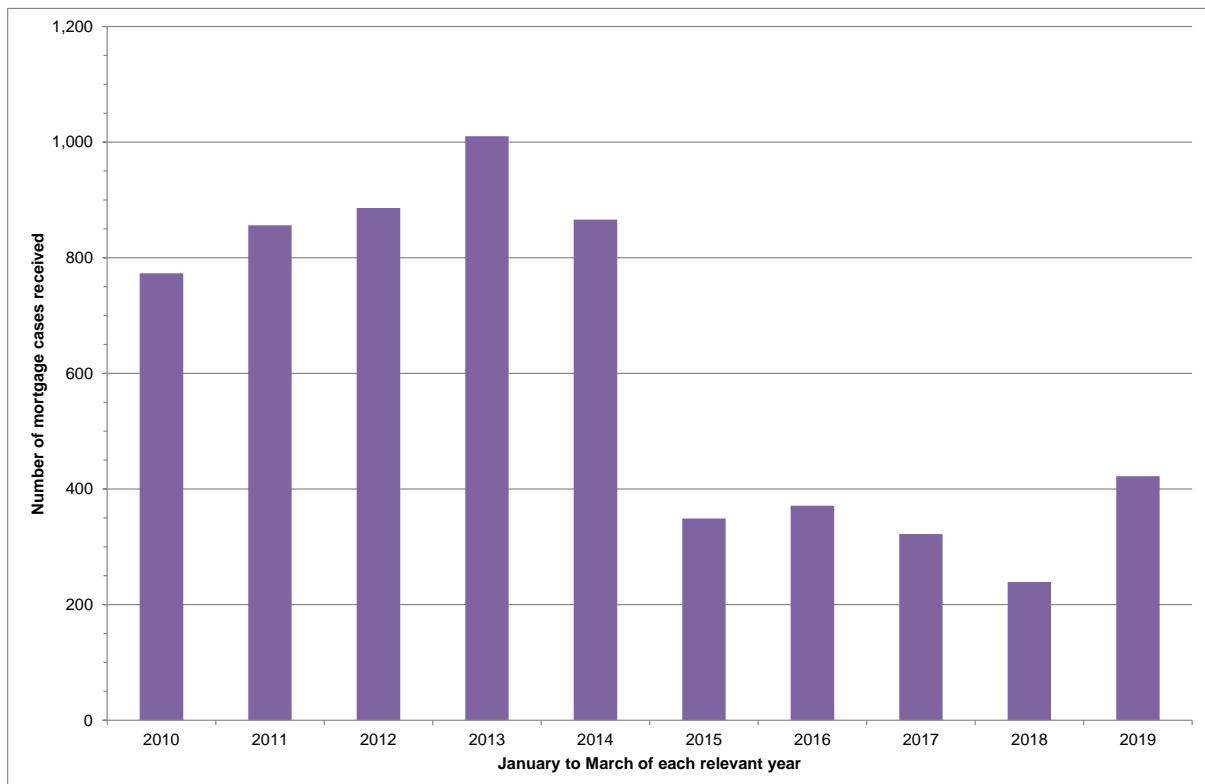
⁴ Department of Justice, 2017. *Policy Papers* [online] Available at: <https://www.justice-ni.gov.uk/publications/type/policypapers>

3. FINDINGS

3.1 Mortgage cases received

During the quarter January to March 2019, 422 mortgage cases were received (the total number of writs and originating summonses that were issued). This is a 77% increase in the number of mortgage cases received in Chancery compared to the same period in the previous year (239 in 2018). It is the largest volume of cases received during the January to March quarter since 2014 (Figure 1).

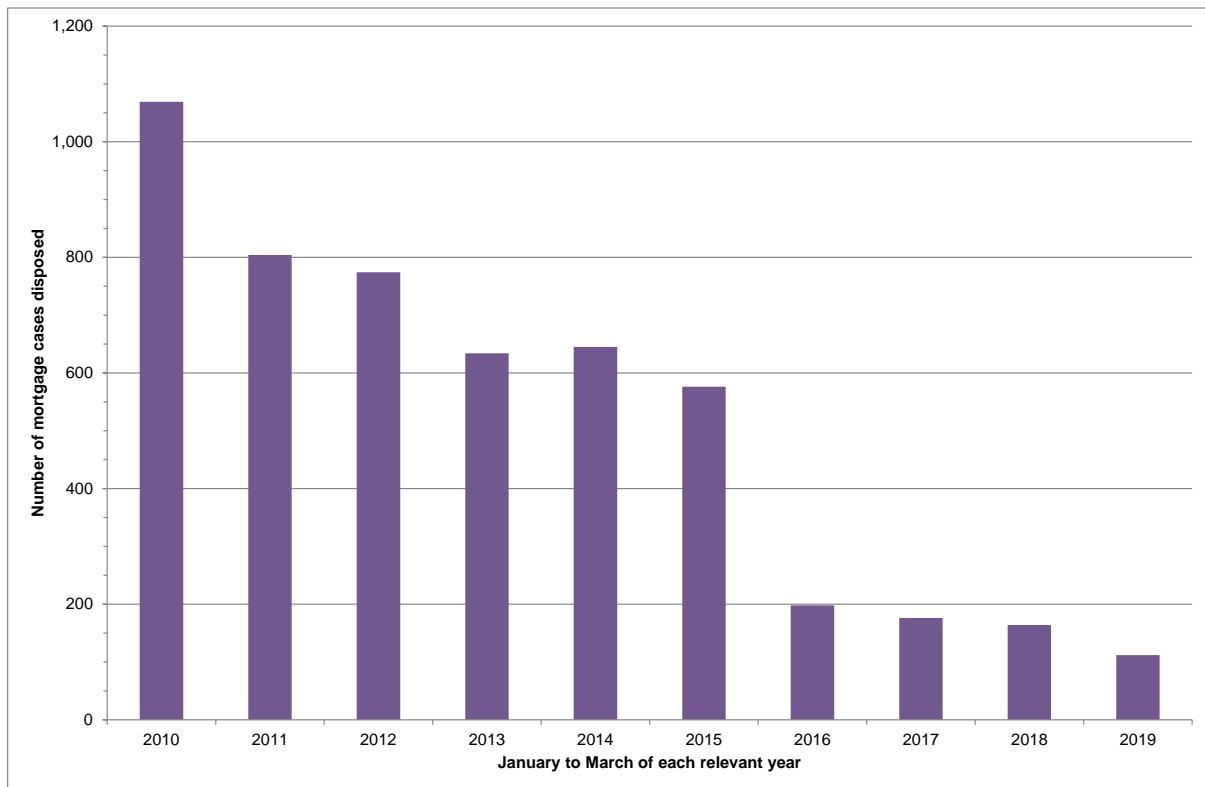
Figure 1: Mortgage cases received: January to March 2010 to January to March 2019



3.2 Mortgage cases disposed

There were 112 mortgage cases disposed of during January to March 2019 (the total number of writs and originating summonses that were disposed). This is a 32% decrease in the number of mortgage cases disposed in Chancery compared to the same period in the previous year (164 in 2018). It is the lowest volume of cases disposed during the January to March quarter since the time series began in 2007 (Figure 2).

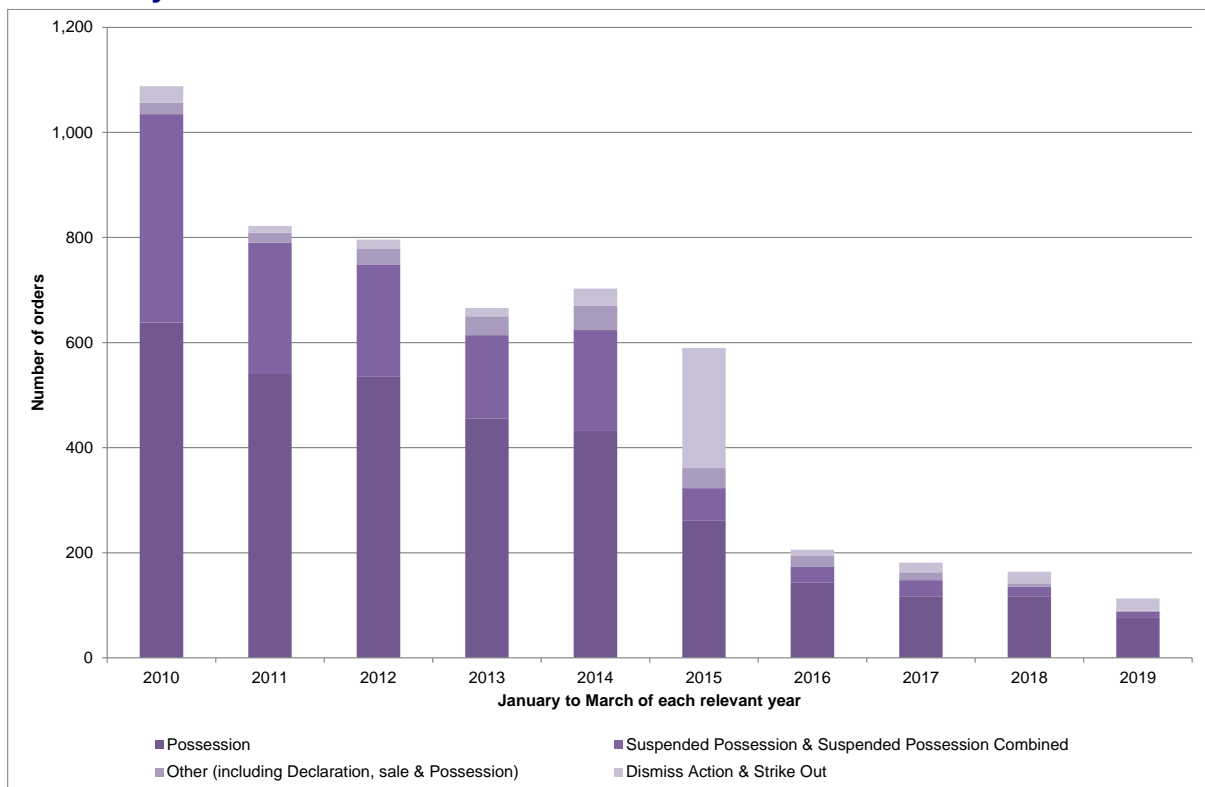
Figure 2: Mortgage cases disposed: January to March 2010 to January to March 2019



3.3 Final orders made in mortgage cases disposed

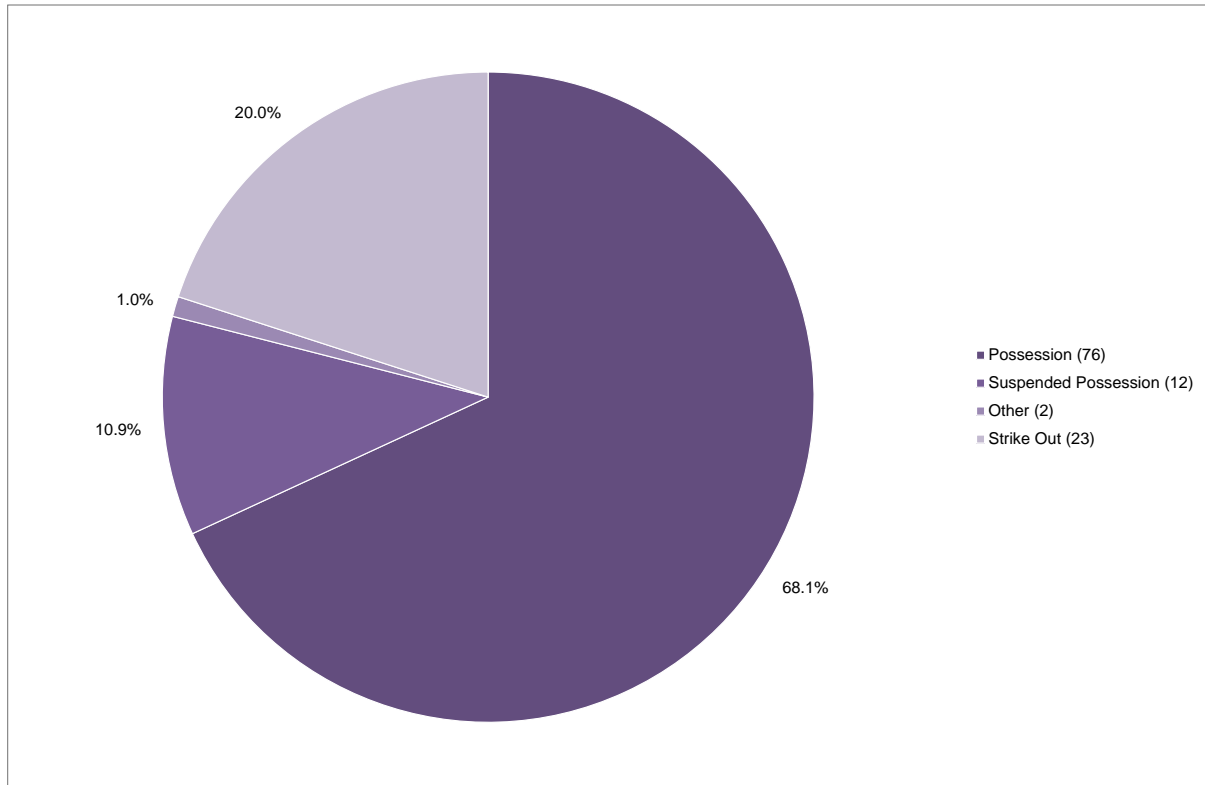
During January to March 2019, there were 113 final orders made in mortgage cases disposed. More than one order can be made per case so this figure does not necessarily equal the number of cases disposed of. This is a 32% decrease from the same period in the previous year (164 in 2018).

Figure 3: Final orders made in mortgage cases disposed: January to March 2010 to January to March 2019



The composition of the 113 final orders made in mortgage cases disposed during January to March 2019 is shown in Figure 4.

Figure 4: Final orders made in mortgage cases disposed: January to March 2019



APPENDIX 1

Table 1: Mortgage cases received from Jan – Mar 2007 to Jan – Mar 2019^P

Year	Number of applications received					% difference from previous year
	Jan-Mar	Apr-Jun	Jul-Sep	Oct-Dec	Total	
2007	565	584	521	542	2,212	- 12%
2008	757	929	1,006	938	3,630	+ 64%
2009	1,021	954	1,124	807	3,906	+ 8%
2010	773	929	863	825	3,390	- 13%
2011	856	939	1,063	730	3,588	+ 6%
2012	886	1,021	986	839	3,732	+ 4%
2013	1,010	950	941	796	3,697	- 1%
2014	866	741	724	579	2,910	- 21%
2015	349	283	359	241	1,232	- 58%
2016	371	270	225	239	1,105	- 10%
2017	322	267	328	238	1,155	+ 5%
2018^P	239	211	216	280	946	- 18%
2019^P	422					

^P 2018 and 2019 data are provisional

Table 2: Mortgage cases disposed from Jan – Mar 2007 to Jan – Mar 2019^P

Year	Number of applications disposed					% difference from previous year
	Jan-Mar	Apr-Jun	Jul-Sep	Oct-Dec	Total	
2007	426	326	167	344	1,263	- 25%
2008	308	539	432	730	2,009	+ 59%
2009	732	767	299	868	2,666	+ 33%
2010	1,069	690	377	868	3,004	+ 13%
2011	804	617	381	896	2,698	- 10%
2012	774	720	549	1,114	3,157	+ 17%
2013	634	682	632	708	2,656	- 16%
2014	645	445	450	561	2,101	- 21%
2015	573	282	175	259	1,289	- 39%
2016	190	257	172	200	819	- 36%
2017	186	209	131	229	755	- 8%
2018^P	164	97	75	126	462	- 39%
2019^P	112					

^P 2018 and 2019 data are provisional

APPENDIX 2 - EXPLANATORY NOTES

Writs and originating summonses (i.e. mortgage cases)

1. **Writs and originating summonses** - document used by the plaintiff, which commences the legal process for an order of possession for property.

Not all writs and originating summonses lead to eviction or (re)possession.

A plaintiff begins an action for an order for possession of property. The court, following a judicial hearing, may grant an order for possession. This entitles the plaintiff to apply to have the defendant evicted. However, even where an order for eviction is issued the parties can still negotiate a compromise to prevent eviction.

Orders

Writs and originating summonses are disposed of by a number of different order types. The main ones are:

2. **Possession** – The court orders the defendant to deliver possession of the property to the plaintiff within a specified time. If the defendant fails to comply with the court order the plaintiff may proceed to apply to the Enforcement of Judgments Office to repossess the property and give possession of it to the plaintiff.
3. **Suspended Possession** – The court may postpone the date for delivery of possession if it is satisfied that the defendant is likely to be able, within a reasonable period, to pay any sums due under the mortgage, or to remedy any other breach of the obligations under the mortgage. The order will specify how much of the sum the defendant is ordered to pay should go towards the mortgage repayment and how much should go towards arrears. A suspended possession order cannot be enforced by the plaintiff without the permission of the court, which will only be granted after a further hearing.
4. **Suspended Possession combined** - This is a suspended possession order that does not specify how much of the sum the defendant is ordered to pay should go towards the mortgage repayment and how much should go towards arrears i.e. it is a combined figure.

5. **Declaration, Sale and Possession** - If the plaintiff seeks possession of property which is subject to an 'equitable mortgage' (i.e. normally one created informally by the deposit of deeds rather than the execution of a mortgage deed) the court may order a sale of the property to enable enforcement of the equitable mortgage and that the defendant give up possession for that purpose. The sale price is subject to approval by the court.
6. **Strike out** - This occurs when the moving party does not wish to proceed any further, or when the court rules that there is no reasonable ground for bringing or defending the mortgage action.
7. **Dismiss action** - The mortgage action is dismissed by the courts.
8. **Other orders** - These include: (a) Declaration of possession coupled with an order for sale in lieu of partition and (b) Stay of Eviction – after a Possession Order is granted but prior to actual repossession, the Defendant may apply to Court to seek a stay of eviction which, if granted, prevents repossession for a certain defined period.

When a case is disposed of it may have more than one final order made.

If an applicant withdraws or discontinues their application prior to the hearing, a case can be disposed without the need for the court to issue any order.

Judiciary

1. **High Court Judge (HCJ)** – A judge who sits in the High Court and Crown Court to hear and determine civil, family and criminal business.
2. **Master** – A judicial post, where the individual must have been a legal practitioner for at least 10 years. The Master determines a range of court proceedings in the High Court, and manages procedural elements of more complex cases before they are heard by a High Court judge.

Further Information

1. Information on mortgages received and disposed for Local Government District and Assembly Area is available in the Economy section of: <http://www.ninis2.nisra.gov.uk/public/Theme.aspx?themeNumber=132&themeName=Economy>
2. Further information on housing statistics in Northern Ireland is available from the Department for Social Development at: <https://www.communities-ni.gov.uk/topics/housing-statistics>

3. Further information in relation to mortgage and landlord possession statistics in England and Wales is available from:
<http://webarchive.nationalarchives.gov.uk/+http://www.justice.gov.uk/publications/mortgatelandlordpossession.htm>
4. Statistical information on the UK housing and mortgage markets is also available from the Council of Mortgage Lenders at:
<https://www.cml.org.uk/industry-data/key-uk-mortgage-facts/>

Analytical Services Group,
Northern Ireland Courts and Tribunals Service,

Department of Justice

4th Floor, Laganside House
23-27 Oxford Street,
Belfast BT1 3LA

e-mail: richard.martin2@courtsni.gov.uk

Telephone: 028 9072 8928

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