

House of Commons Work and Pensions Committee

Inquiry into the Role of Jobcentre Plus in the reformed welfare system

**THE DWP'S UPDATED STATISTICS ON JSA
SANCTIONS:
WHAT DO THEY SHOW?**

**Further supplementary evidence submitted by
Dr David Webster**

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SUMMARY

The delayed JSA sanctions statistics for the period 22 October 2012 to 30 June 2013, published by DWP on 6 November 2013, have remarkable implications which ought to be known to the Committee before finalising its report. The number of sanctions in the year to 30 June 2013 was 860,000, the highest for any 12-month period since statistics began to be published in their present form. Sanctions for not actively seeking work and for non-participation in training and employment schemes have risen further, while those for missing an interview and for refusing a job have fallen, the latter very sharply indeed. The latter suggests a dwindling focus within DWP on finding people jobs. Up to 30 June 2013, the number of job outcomes achieved by the Work Programme has been greatly exceeded by the number of sanctions imposed for non-participation. Contrary to what was claimed by Lord Freud prior to their introduction, 3-year sanctions have built up very quickly, with the 700 to date understating the rate now reached. In the two years since June 2011 there has been a massive rise in the number of 'reserved' or 'cancelled' JSA sanction decisions, suggesting that people are being driven off JSA by the sanctions regime. This in turn could explain why there has been a sharp increase in the gap between the number of unemployed people identified by the official Annual Population Survey, and the number in the claimant count. This has very serious implications and the DWP should be asked to provide a full explanation for the rapid increase in reserved and cancelled decisions. The total of reconsiderations under the Coalition has increased by 15,000 per month to a new high of 20,000 per month, representing a substantial redirection of DWP resources away from other tasks. Claimants' success rate at reconsideration has reverted to its long-term level of about 50 per cent. However, Tribunals, which are not under the control of the Secretary of State, have raised the proportion of appeals decided in claimants' favour from a long-term level of 17.0 per cent, up to 42.2 per cent in November 2012 to June 2013. This remarkable increase is strong evidence that large numbers of claimants are being wrongly sanctioned even in terms of current legislation. The fact that only 1.7 per cent of claimants appeal to a Tribunal – the only independent element in the system – indicates the need for urgent reform. Finally, the format used by DWP for its new statistics is wholly inadequate and involves a serious loss of information and accountability.

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1. I previously submitted evidence to the Committee 'JSA Sanctions and Disallowances' on 22 May 2013 (with corrections 8 August 2013), and supplementary evidence 'Geographical Variations in JSA Sanctions and Disallowances' on 8 August 2013. At that time there had been a suspension by the DWP of the normal publication of statistics on sanctions and disallowances, so that data were available only up to 21 October 2012. On 6 November, the DWP published statistics for the period 22 October 2012 to 30 June 2013.¹
2. These new statistics present a substantially different picture of the operation of the sanctions regime from that which was previously available. I am therefore writing to draw the attention of the Committee to the implications, some of which are quite remarkable.
3. This supplementary evidence should be read in conjunction with that submitted on 22 May as many relevant points made there are not repeated here. It does not deal with ESA sanctions.

Scale of sanctions

4. The number of JSA sanctions in the year to 30 June 2013 was 860,000, the highest for any 12-month period since statistics in their present form began to be published, in April 2000. As a percentage of JSA claimants, monthly referrals since October 2012 have repeatedly reached levels not seen since April 2000. Eight of the last 12 months have seen over 4.9 per cent of claimant unemployed receiving an adverse decision, a level only ever reached in five previous months, all of them under the Coalition (**Figure 1**).
5. Over the whole life of the Coalition, JSA sanctions have run at 4.35% of JSA claimants per month. This compares with 2.60% during the Labour government from April 2000 to April 2010.

Reasons for sanctions

6. There have been considerable further changes in the numbers of JSA sanctions for particular types of 'failure' (**Figure 2**). In particular, sanctions for not actively seeking work and for non-participation in training and employment schemes have risen further, while those for missing an interview and for refusing a job have fallen, the latter very sharply indeed.

Not actively seeking work

7. There has been a continuing huge increase in sanctions for ‘not actively seeking work’, which usually means not applying for as many jobs in a fortnight as the adviser instructs (**Figure 3**). They are now running at 287,000 per year, compared to 60,000 per year before the Coalition, and at almost 2 per cent of claimants per month. This is the highest level since the Baldwin government’s campaign against the unemployed in the 1920s, which saw disqualifications of over 2 per cent per month for the very similar ‘not genuinely seeking work’ from October 1928 to March 1929 and in April-May 1929.² This reason for disqualification was ended by a Labour Party backbench revolt resulting in abolition in March 1930. Sir William Beveridge later commented (1930, p.280) about this reason that ‘it was better to take the risk of an occasional loss to the fund by a few idle workmen than to drive all workmen on fruitless journeys and perpetuate the disorganisation of the labour market....The condition will not, it may be hoped, ever rise from its dishonoured grave.’ Although it did rise from its grave, being reintroduced by the Conservative government in 1989, it was not much used before the present Coalition government: the previous peaks were of about 0.54 per cent per month in the quarter ending December 1997 soon after Jobseeker’s Allowance began,³ and 0.64 per cent per month under John Hutton in November 2007. We are therefore now seeing a very substantial change in the administration of British unemployment insurance.

Failure to carry out a Jobseeker’s Direction

8. From a lower level, there has also been a huge increase in sanctions for failure to carry out a Jobseeker’s Direction, from under 4,000 per year before the Coalition to 27,000 per year. In only 18 months, they have tripled from 0.05 per cent of claimants per month to 0.15 per cent (**Figure 4**).

Refusing a job opportunity

9. Sanctions for refusing a job opportunity had doubled under the Coalition, from around 3,000 per month in May 2010 to over 6,000 (0.5 per cent of claimant unemployed). However they have fallen off sharply since October 2012, to only just over 1,000 in recent months (0.1 per cent of claimant unemployed (**Figure 5**)). It is unlikely that this is due to a sudden change of behaviour by claimants. It is more likely to be because Jobcentres are focusing on sending claimants on training/employment schemes, or sanctioning them, and are introducing claimants to fewer employment opportunities, relying on the computerised Universal Jobmatch instead. It appears that offering claimants job opportunities has fallen down the scale of DWP priorities.

Failure to participate in training or employment programmes (including the Work Programme)

10. Sanctions for failure to participate in training or employment programmes (including the Work Programme) have fluctuated, but reached 226,000 in the year to June 2013, up from 102,000 in the last year of the previous government. Some of the fluctuations may reflect the release of ‘stockpiled’ work experience sanctions following the retrospective Jobseekers (Back to Work Schemes) Act last March. Overall, these sanctions have been at around 1.0 per cent of unemployed claimants per month under the Coalition. This contrasts with a previous level of 0.2 per cent (**Figure 6**).

11. Up to 30 June 2013, the number of job outcomes achieved by the Work Programme has been greatly exceeded by the number of sanctions imposed for non-participation (**Figure 7**).⁴ The Programme appears to be more a sanctions programme than an employment programme.

Failure to participate in Mandatory Work Activity

12. Sanctions for failing to participate in Mandatory Work Activity – an innovation by the Coalition – have now reached 10,000 per year, or 0.06 per cent of claimants per month.

Failure to attend an advisory interview

13. By contrast, sanctions for not attending or being late for advisory interviews have fallen off sharply, from an annual rate of 290,000 in October 2012 to 210,000 by June 2013. They have also fallen as a percentage of the claimant unemployed (**Figure 8**). This may at least partly reflect the fact that many advisory interviews now take place within the Work Programme rather than Jobcentre Plus. These sanctions are now 4 weeks, compared to 1 or 2 weeks from April 2010 to October 2012. Before April 2010, the penalty was ‘disentitlement’, meaning that the claimant’s existing claim was discontinued but they could start another after a small number of waiting days.

Voluntary Leaving and Misconduct

14. Sanctions for voluntarily leaving a previous job, or being dismissed from it for misconduct, have historically been by far the most important reason for benefit disqualification. But as noted in my evidence of 22 May (para.10), since the start of the present recession they have hardly featured at all, and this continues to be the case. This is because people are more careful to hold on to a job when they know it is more difficult to get another.

Non-Availability for Work

15. Non-availability has also been historically important but this type of disqualification has run at around 1,000 or less per month since 2000 and this remains the case. However, the new regime now imposes a loss of benefit of 4 weeks when previously a claimant able to prove that they had become available could reclaim almost immediately. It is difficult to understand the logic of the new penalty and the Explanatory Memorandum to the 2012 Regulations⁵ made no attempt to explain it. It leads to absurd results, as in a case personally known to the author where a grandmother in Glasgow acting as a lone parent to her grandson had a week’s holiday arranged for her and the child by the local authority social work department and was then sanctioned for four weeks. It turned out that as a ‘kinship carer’, she should not have been on the JSA regime in the first place.

Duration of sanctions

16. The BBC reported on 12 November 2010: ‘Questioned on BBC’s *Newsnight*, Welfare Minister Lord Freud said the new sanctions would only be imposed in a small minority of cases, saying: “*I would be incredibly surprised if we really talk about people going through to the third strike. In reality the numbers will be very few indeed.*” (italics added)⁶ Yet only 8 months into the new regime, 700 JSA claimants have already had these imposed (Table 1.7 of the DWP statistics release of 6 November).

17. Since it takes time to build up the three ‘strikes’ leading to a 3-year sanction, and these statistics relate to the start of the new system, the above figures understate the rate of 3-year sanctions which has been achieved.

18. In dramatically understating the likely scale of the new 3-year sanctions, Lord Freud was following in the footsteps of Peter Lilley, who stated on 24 October 1994 (col.637) about the then forthcoming Jobseekers Act 1995: ‘The hon. Member for Garscadden (the late Donald Dewar) asked whether I expected the new sanction, which will mean that able-bodied people with no dependants and no caring responsibilities can lose all benefit, to apply often. *I do not believe that it will apply often.*’ (italics added)

Rise in Reserved or Cancelled Decisions and its implications

19. In the two years since June 2011 there has been a massive rise in the number of ‘reserved’ or ‘cancelled’ JSA sanction decisions, especially in the latter. Decisions are cancelled when the claimant is no longer claiming JSA at the time of the referral. Decisions are ‘reserved’ when the claimant has stopped claiming between the time of referral and the time of decision. ‘Reserved’ and ‘cancelled’ decisions were at 72,000 per year in 2006, but were 532,000 in the year to June 2013. As a percentage of all decisions, they have doubled from around 15 per cent to around 30 per cent (**Figure 9**).

20. At the time of my evidence of 22 May, I had noticed the rise in reserved/cancelled decisions to October 2012, but had assumed that it was in some way compensating for the pronounced fall from 18.8 per cent of decisions in May 2010 to 9.1 per cent in July 2011. It is now clear that the rise is more significant than this. It appears that people are being driven off JSA by the sanctions regime.

21. This in turn could explain why there has been a sharp increase in the gap between the number of unemployed people identified by the official Annual Population Survey, and the number in the claimant count. The GB seasonally adjusted claimant count has fallen rapidly in recent months from 1.473m in February 2013 to 1.331m in August and 1.245m in October. By contrast, there has been no comparable fall in the seasonally adjusted official unemployment measure, which showed 2.447m unemployed in GB at January to March 2013 and 2.403m at July to September 2013. The gap between the two measures therefore increased by 98,000 between February and August 2013.

22. Because of the importance of the claimant count as a leading indicator for assessment of the national economy, for understanding the effects of unemployment and for measuring the health of local economies, the DWP should be asked to provide a full explanation for the rapid increase in reserved and cancelled decisions.

Reconsiderations and Appeals

23. The new statistics for reconsiderations (internal to DWP) and appeals (to a Tribunal) published by DWP give only the totals for the whole period 22 October 2012 to 30 June 2013. In the accompanying charts, these figures have been averaged out across the individual months.

24. The total of reconsiderations under the Coalition has reached a new high of 20,000 per month, from a previous level of 5,000 per month. The total of appeals rose under the Coalition from around 700 per month to over 2,000 in early 2011, but has since fallen back to little over 1,000 (**Figure 10**). The recent fall in appeals will probably have been influenced by the withdrawal of legal aid from 1st April 2013.

25. The increase of 15,000 reconsiderations per month represents a substantial redirection of DWP resources away from other tasks.

26. As a proportion of initially adverse decisions, reconsiderations have increased substantially from 17.0 per cent over the period April 2000 to April 2012, to 25.3 per cent in the period November 2012 to June 2013. This is the highest level since the current 1998 Social Security Act appeal system was introduced in 2000, although there was a previous peak of 25.0 per cent in December 2003. By contrast, Tribunal appeals did rise under the Coalition from a long-term level of under 2.0 per cent, up to a peak of 4.1 per cent in June 2011, but have since fallen back to their long-term level (**Figure 11**).

27. The changes in claimants' success rate at reconsideration and appeal are particularly striking. In relation to reconsiderations, DWP decision makers appear to have responded to the Coalition's early pressure on staff to make more referrals by increasing the proportion of reconsiderations in claimants' favour from a long-term level of just over 50 per cent, up to 60 per cent (**Figure 12**). But the Social Security Act 1998 removed what since the beginning of National Insurance had always been an independent decision-making service, and put decisions under the direct control of the Secretary of State. Since December 2010, claimants' success rate at reconsideration has come back down to about 50 per cent.

28. By contrast, Tribunals are not under the control of the Secretary of State. They have raised the proportion of appeals decided in claimants' favour from a long-term level of 17.0 per cent, up to 42.2 per cent in November 2012 to June 2013 (**Figure 12**). This remarkable increase is strong evidence that many if not most of the additional sanctions imposed by the Coalition over and above previous levels are unreasonable and therefore unlawful. However, because Tribunals' decisions do not set any precedent, they cannot put a stop to malpractice by DWP.

29. If sanctioned claimants who ask for reconsideration have a success rate of 50 per cent, but only one quarter ask for reconsideration, and if those who appeal to a Tribunal have a success rate of 42.2 per cent but only 1.7 per cent appeal, then it is evident that huge numbers of claimants are being wrongly sanctioned, even in terms of the currently existing legislation – probably into the hundreds of thousands a year. It is clear that the reconsideration and appeal system established by the Social Security Act 1998 is unfit for purpose and must be reformed as a matter of urgency. Evidence that claimants find it difficult to use the reconsideration/appeal system has been available for years (Peters & Joyce 2006, pp.35-37) but has been ignored.

Inadequacy of the new format for DWP sanctions statistics

30. The format adopted by the DWP for its JSA sanctions statistics release of 6 November 2013 is extremely inadequate. Far less information is available than previously and there has therefore been a serious loss of accountability.

31. Although there are some improvements, particularly the split between reserved and cancelled decisions, the change of format for the most part has caused a loss of information compared to what is available on the DWP web Tabtool for 2000-2012. For instance, we have lost much of the data on referrals, all data on duration on JSA at time of referral and all data for parliamentary constituencies and (more vitally) local authorities; the demographic breakdowns of Table 1.6 and the reconsideration/appeals data of Table 1.8 would previously have been available on a month-by-month basis, whereas now we are given only a total for the rather odd period of 22 Oct 2012 to 30 June 2013.

32. Most problems of data availability would be readily resolved simply by uploading the statistics from 22 October 2012 to the DWP's Tabtool in the same way as the data to 21 October 2012. There is no technical reason why this cannot be done. While the former division into varied length/fixed length/entitlement referrals and decisions is no longer applicable, this is not in itself any barrier to displaying the data via the Tabtool, which already contains a large number of different datasets relating to different benefits, each with their own categories. Of course the Tabtool has its own weaknesses and could certainly itself be improved, but it has provided far more scope for detailed analysis of the sanctions data than is offered by the new sanctions format.

33. The DWP's consultation paper on sanctions statistics of 17 October 2012⁷ gave a commitment to continue to publish statistics on a quarterly basis. The newly published statistics do not honour this, except where monthly data are given. Uploading the data to the Tabtool would resolve this issue.

34. I have written to the DWP raising these points and have been promised a reply by 22 November. It is hoped that the Committee will urge the DWP to publish information on the harsher sanctions regime from 22 October 2012 in at least as much detail as before.

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Dept of Employment & Productivity (1971) *British Labour Statistics Historical Abstract 1886-1968*, London, HMSO

Peters, Mark and Joyce, Lucy (2006) *A review of the JSA sanctions regime: Summary findings*, DWP Research Report No. 313

Figure 1

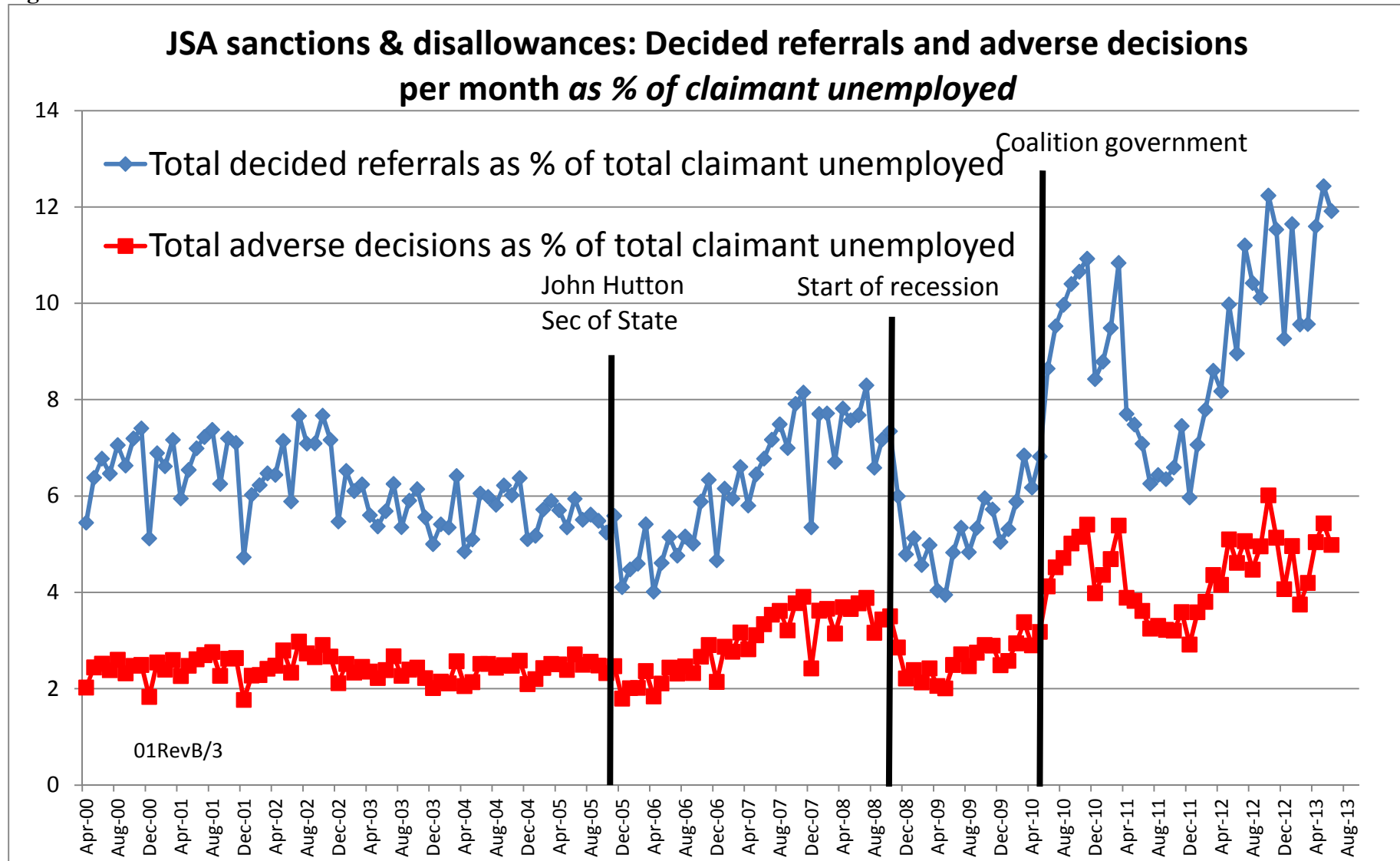


Figure 2

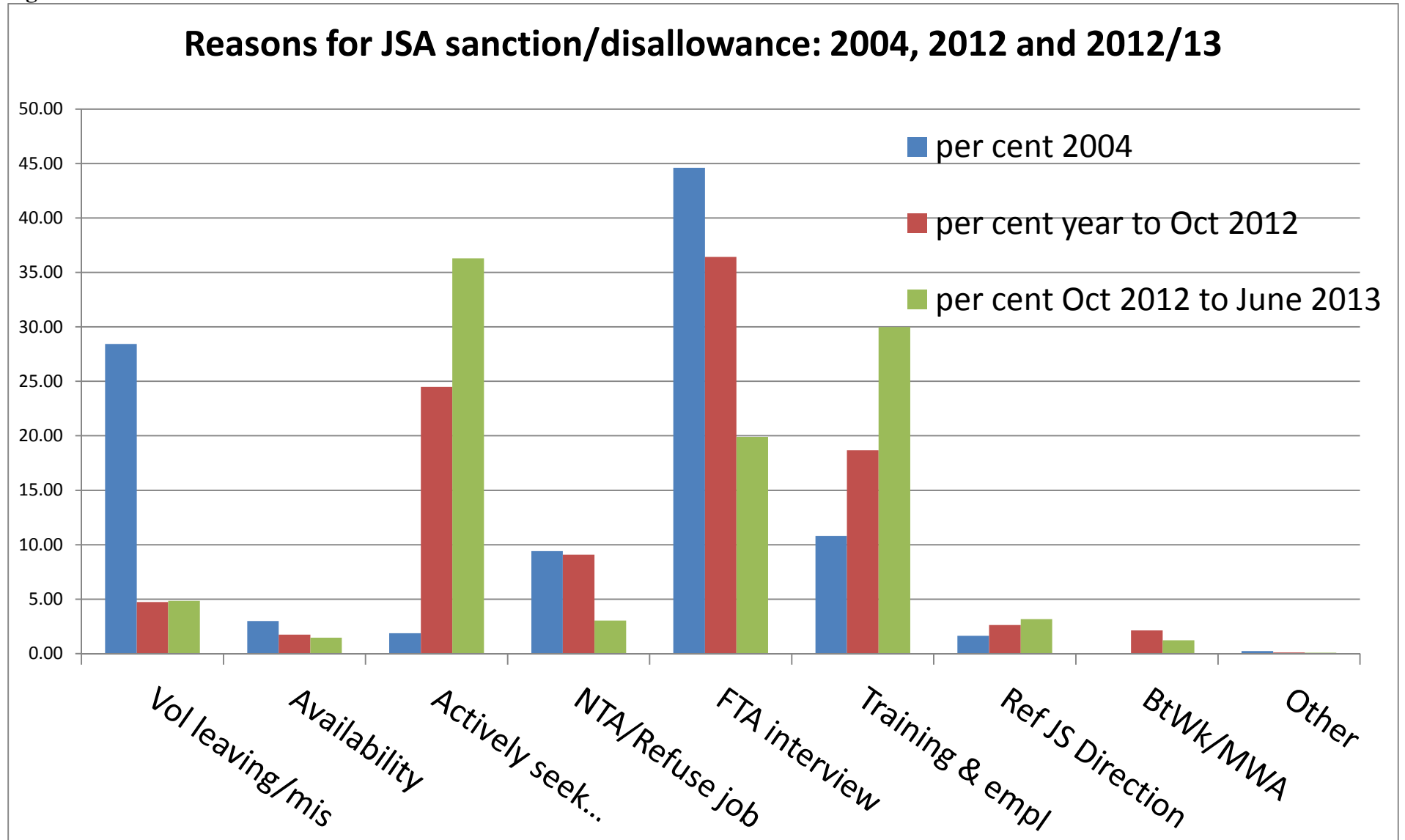


Figure 3

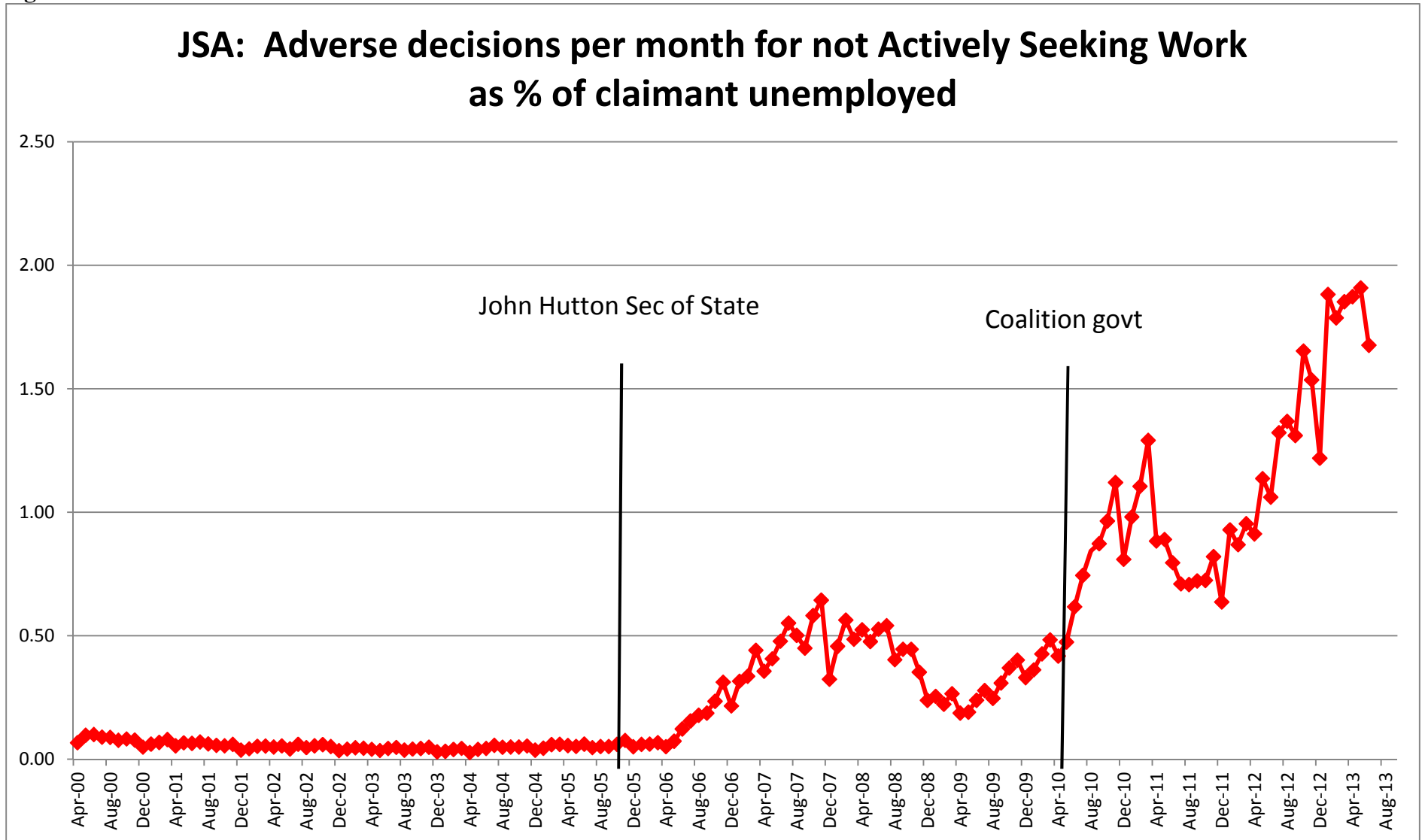


Figure 4

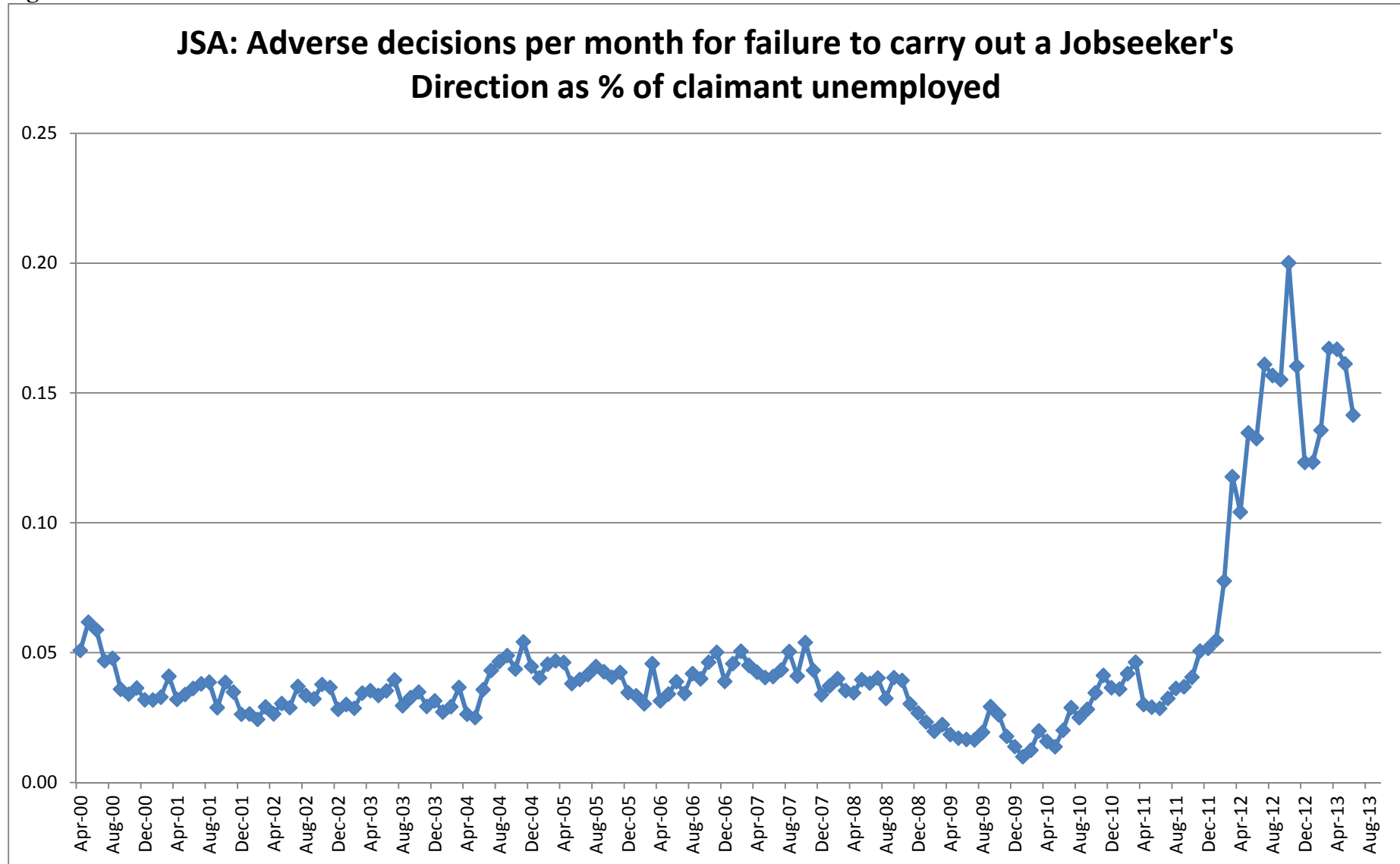


Figure 6

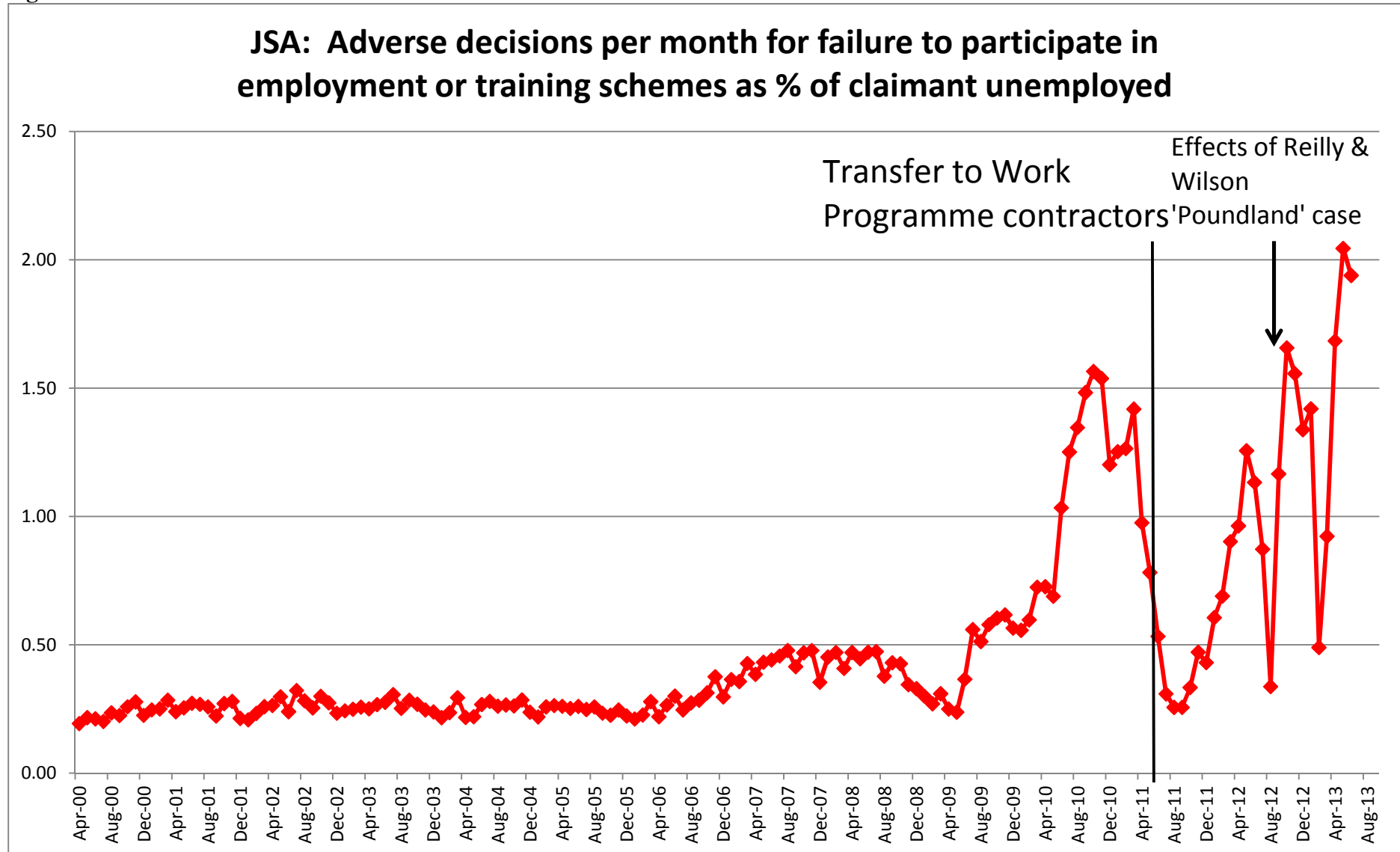


Figure 7

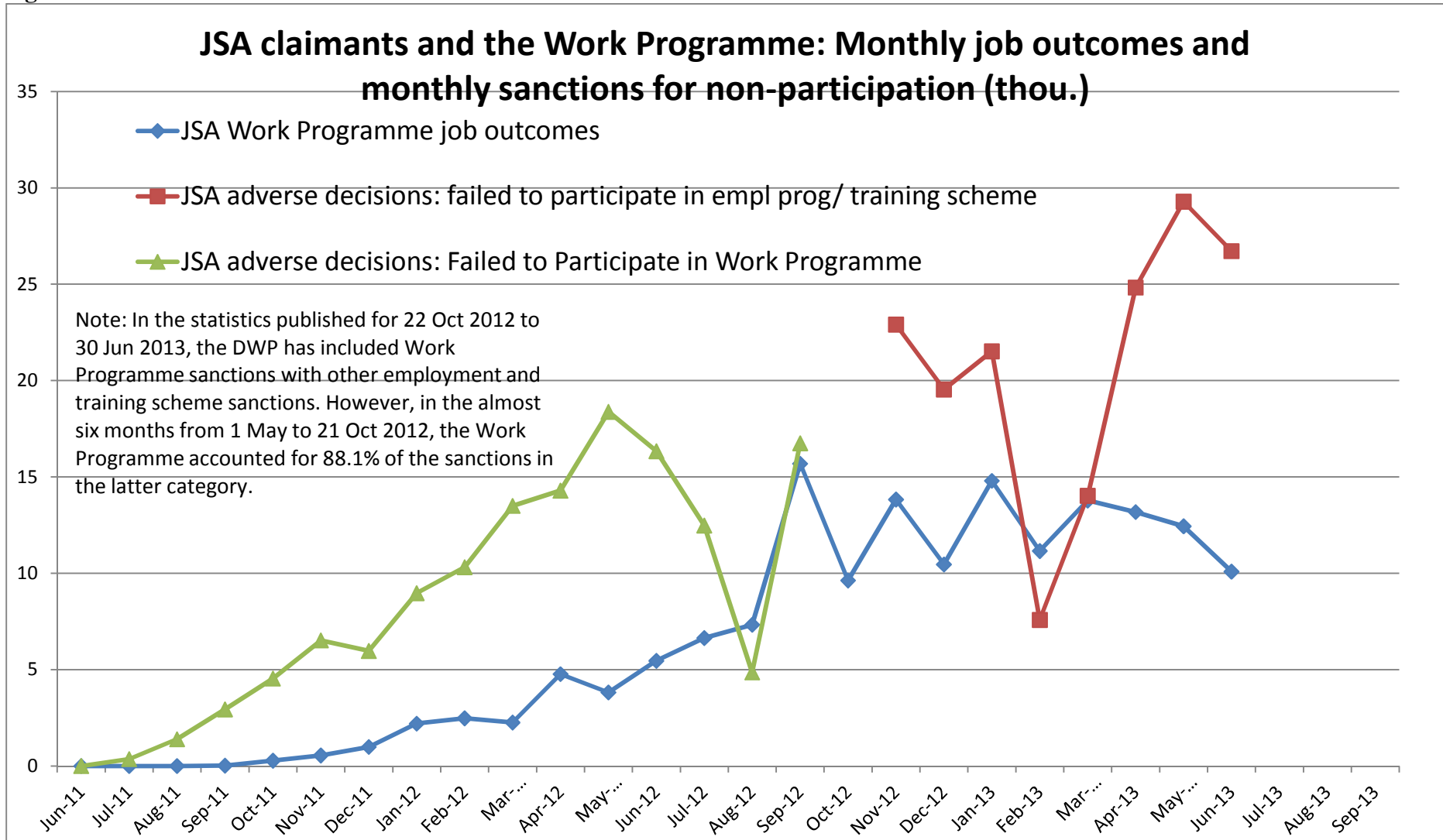


Figure 8

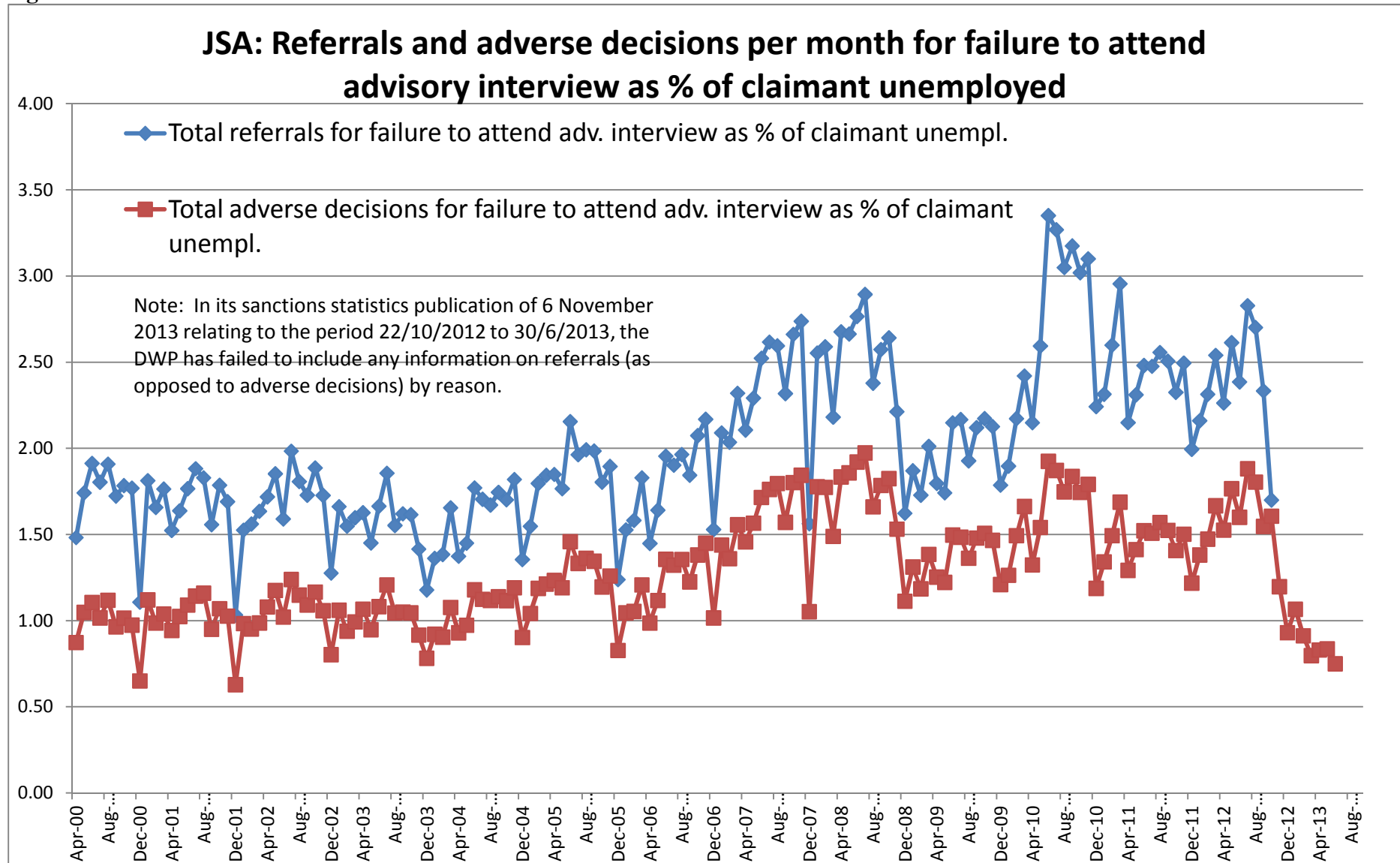


Figure 9

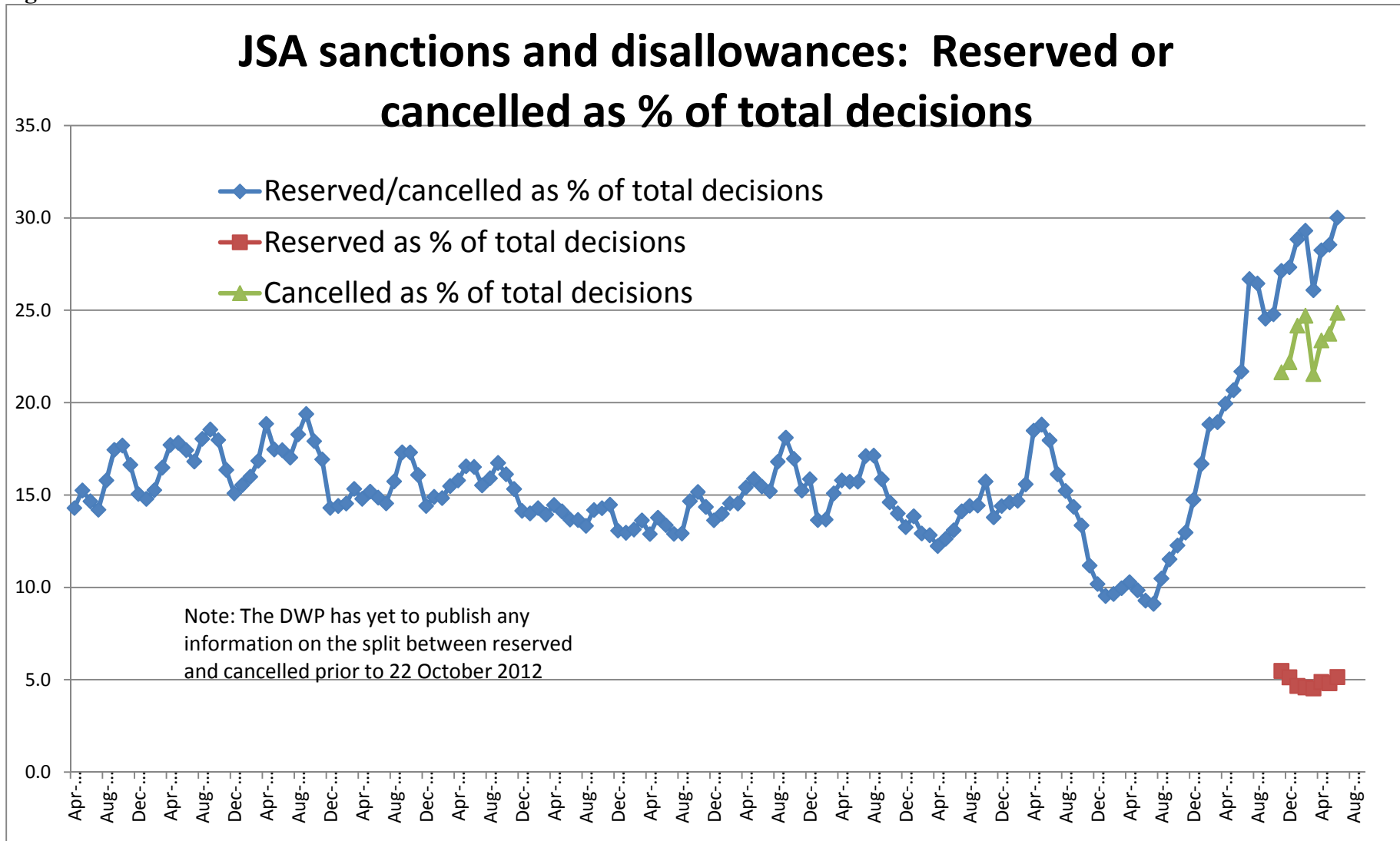


Figure 10

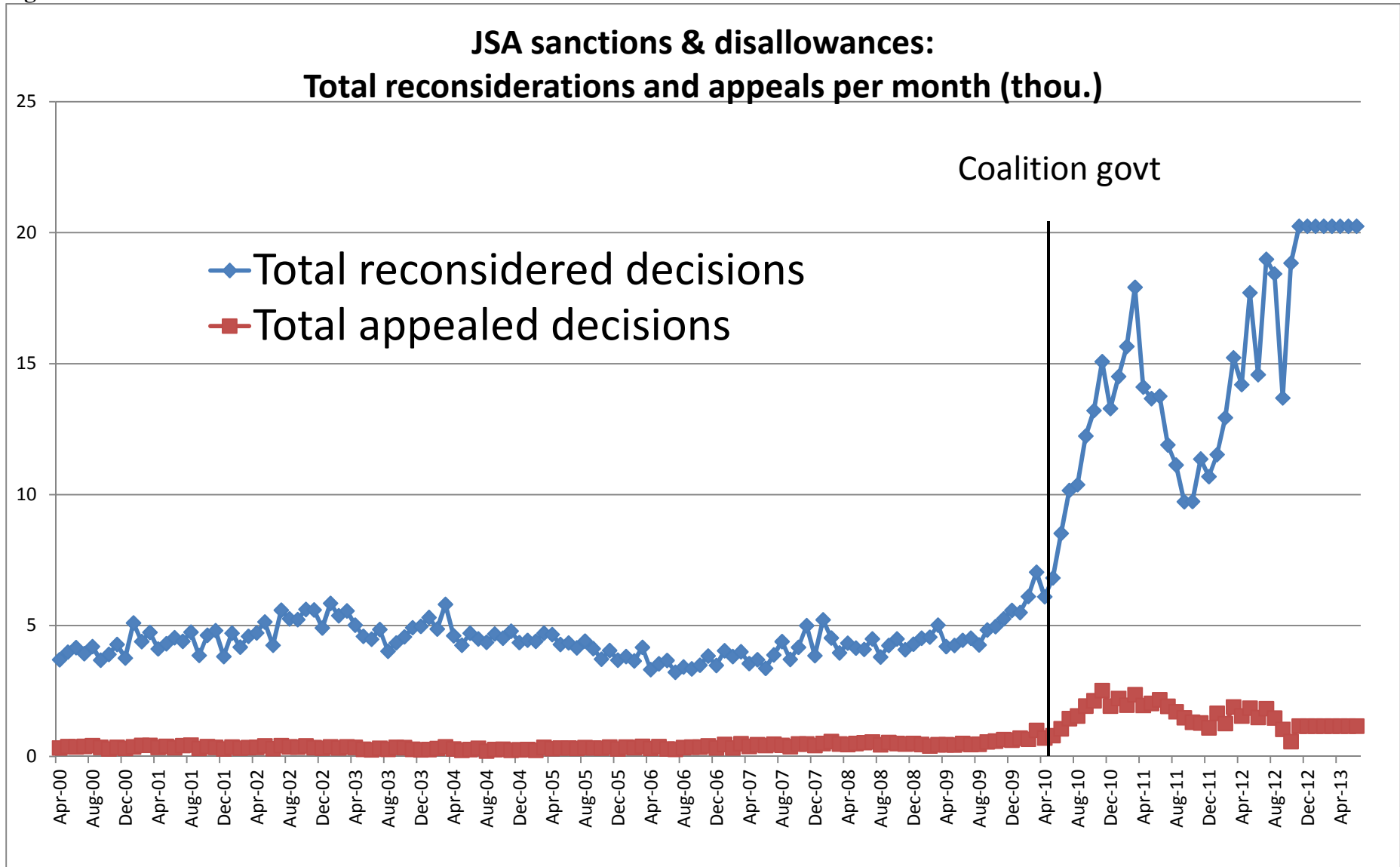


Figure 11

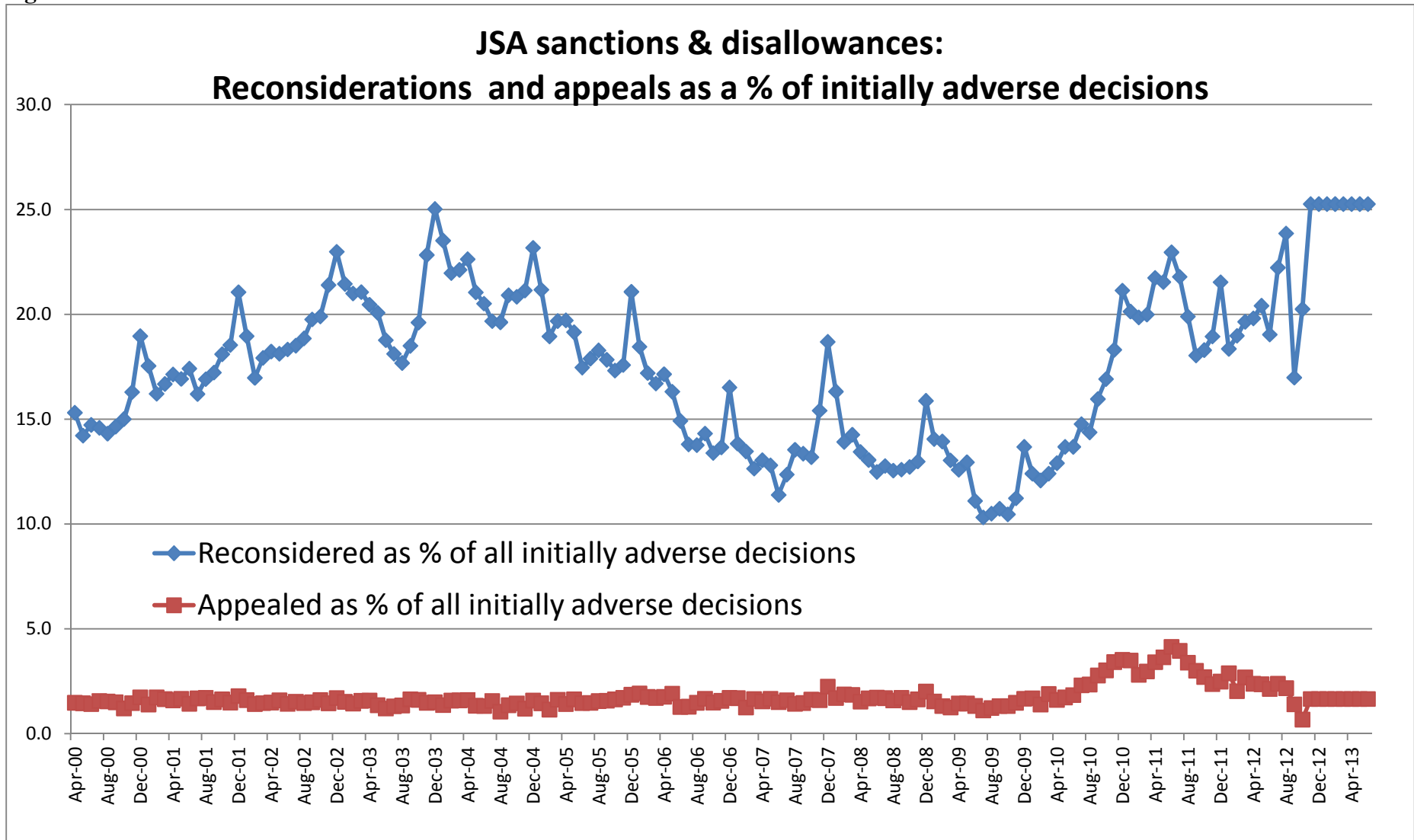
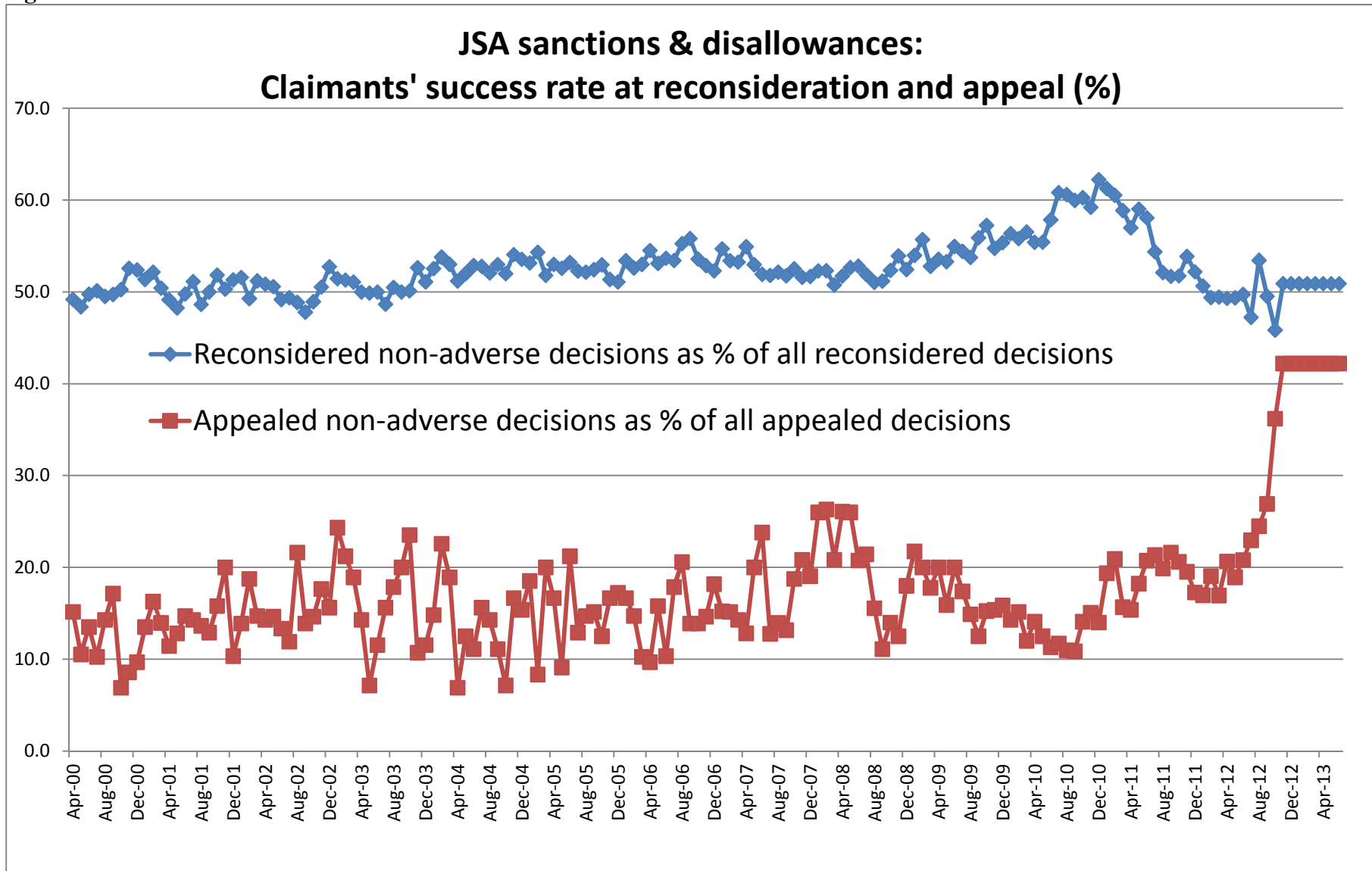


Figure 12



¹ <https://www.gov.uk/government/collections/jobseekers-allowance-sanctions>

² Deacon (1976) Table 10 p.103 and Dept of Employment & Productivity (1971), Table 111.

³ Statistics on sanctions and disallowances prior to April 2000 were published in a slightly different way so that the figure quoted is for decisions before any reconsiderations or appeals. If calculated in the same way as current statistics, the 0.54 per cent figure would be slightly lower.

⁴ As noted in Figure 7 itself, In the statistics published for 22 Oct 2012 to 30 Jun 2013, the DWP has included Work Programme sanctions with other employment and training scheme sanctions. However, in the almost six months from 1 May to 21 Oct 2012, the Work Programme accounted for 88.1% of the sanctions in this category. Reducing the sanctions shown in Figure 7 by 11.9% leaves them comfortably clear of the job outcomes shown in the same chart. A sanctions figure for Oct 2012 cannot be produced from the data published by DWP.

⁵ S.I. 2012 No. 2568 The Jobseeker's Allowance (Sanctions) (Amendment) Regulations 2012. Explanatory Memorandum at http://www.legislation.gov.uk/ukxi/2012/2568/pdfs/ukxiem_20122568_en.pdf

⁶ <http://www.bbc.co.uk/news/uk-politics-11742916>

⁷ The consultation document appears to be no longer available on the DWP website but an announcement about it can still be found at <https://www.jiscmail.ac.uk/cgi-bin/webadmin?A2=OFFICIAL-STATISTICS;7b6dc056.1210>