

## BRIEFING

### THE DWP'S JSA/ESA SANCTIONS STATISTICS RELEASE, 19 February 2014

On 19 February 2014 the DWP released statistics on Jobseeker's Allowance (JSA) and Employment and Support Allowance (ESA) sanctions for a further three month period, running to 30 September 2013. DWP has not issued its own press release and its commentary on the webpage <https://sw.stat-xplore.dwp.gov.uk/webapi/jsf/dataCatalogueExplorer.xhtml> does not say anything meaningful about the figures. The purpose of this note is to spell out what the new figures show.

These figures do not show the impact of the new 'Claimant Commitment' (requiring claimants to spend the equivalent of 35 hours a week looking for work), which has been introduced in a rolling programme across Great Britain, starting on 14 October 2013. However, they do reflect the impact of a sharp fall in the number of JSA claimants, from 1.548m in February 2013 to 1.263m in September 2013.

For its new release, the DWP has used new software (Stat-Xplore) which has enabled much more penetrating analysis than was possible on the basis of the stopgap tabulations used for the previous release on 6 November 2013.

In previous commentaries I have quoted statistics going back to April 2000. For key items I am now able to quote figures back to January 1997, because I have added in data from the paper-based former Adjudication Officers' Decisions series on a comparable basis. This means I am now able to quote figures for the whole of the last Labour government, elected in May 1997, and effectively for the whole of the existence of JSA, which started in October 1996 (I am not quoting the last quarter of 1996 because for this period there were a substantial number of cases (about 17%) still being processed under the former system).

## KEY POINTS FROM THE NEW STATISTICS

### Highest numbers and rates of sanctions to date

- **Total JSA plus ESA sanctions in the year to 30 September 2013 were 897,690. This is the highest for any 12-month period since JSA was introduced in 1996. (Figure 1)**
- **The number of JSA sanctions in the year to 30 September 2013 was 874,850, the highest since JSA was introduced in 1996.** It compares with 500,000 in the year to 30 April 2010, the last month of the previous Labour government. **(Figure 1)**
- In the year to 30 September 2013, JSA claimants were sanctioned at the rate of **5.11% per month**, and in the 3 months to 30 September 2013 at the rate of **6.00% per month**. These are the highest rates recorded since the start of JSA in 1996. **(Figure 2)**

- Over the whole period of the Coalition, JSA sanctions have run at **4.42%** of JSA claimants per month. This compares with approximately **2.46% during the Labour government from May 1997 to April 2010**. (Note: I have previously given a figure of **2.60%** for the monthly rate of sanctions under the Labour government but this was from *April 2000* to April 2010. The new figure is fairer.)
- In the period 22 Oct 2012 to 30 Sept 2013 (a period of 49 weeks), 527,574 individuals received a sanction. The highest published number for any 52 week period was 528,700 in the financial year 2010/11 (FoI request 2012-5156, 14th January 2013). **This indicates that the number of individuals sanctioned within any 12-month period will also have reached its highest level since the beginning of JSA.**
- **In the year to 30 September 2013 there were 22,840 sanctions imposed on ESA claimants in the Work Related Activity Group. This is the highest for any 12-month period since sanctions were introduced for ESA WRAG claimants in October 2008.**
- **The rate of sanctions for ESA WRAG claimants is much lower than for JSA claimants but is rising and has almost reached 0.5% per month (Figure 3).**

### **Appeals: There has been a sensational increase in the success rate of claimants at Tribunal– but only one in 50 claimants appeals**

- There has been a dramatic increase in the number of successful appeals by those sanctioned claimants who take their cases to an independent Tribunal (**Figure 4**). **Tribunals are now upholding almost 9 out of 10 of appeals against DWP.** Before the Coalition the number of successful Tribunal appeals in any 12-month period was well under 2,000. It has now risen to over 14,000.
- The success rate of those sanctioned claimants who take their cases to an independent Tribunal ran at 20% or less under the previous Labour government (since April 2000). Under the Coalition it has risen dramatically to 87% in the 3 months to 30 September 2013 (**Figure 5**). This confirms the abundant evidence from well-attested case histories that sanctions have become more unreasonable. It is strong evidence that the Secretary of State is behaving unlawfully on a large scale.
- Some commentators – including the shadow Work and Pensions Secretary, Rachel Reeves - are quoting a success rate of 58%. This figure is taken from the DWP's summary tabulation covering the period 22 Oct 2012 to 30 Sept 2013 and shows the average for the whole period. It fails to reflect the strong and clear upward trend shown in **Figures 4 and 5**, which use the monthly figures contained in the full DWP Stat-Xplore database.
- Unfortunately only about one in 50 sanctioned claimants appeals to a Tribunal – 2.44% in the latest 3 months. The vast majority of claimants find the process too difficult. (**Figure 6**)
- A higher proportion of sanctioned claimants (though still a minority) ask for 'internal reconsideration' by the DWP. This proportion has risen under the Coalition to the unprecedented level of 31% (**Figure 6**). But these 'reconsiderations' are as much under the control of the Secretary of State as are the initial decisions. **Figure 5** suggests that while DWP decision makers reacted to initial pressure from ministers to

drive up sanctions unreasonably by increasing the proportion of successful reconsiderations, they have now been pressured to reduce this to its long term level of just over 50%. Since the Social Security Act 1998 they have been mere agents of the Secretary of State and have had no independent responsibility to apply the law reasonably.

### **More JSA claimants given three-year sanctions**

- Up to 21 October 2012 the maximum length of a JSA sanction was 6 months. Now claimants can be deprived of benefits for up to 3 years for repeat ‘offences’. Ministers claimed that hardly anyone would be subject to the new 3-year sanctions. The number of JSA claimants who had received a 3-year sanction rose to 962 by 30 September 2013, up from 700 by 30 June 2013.

### **Failure to participate in training/employment schemes and not ‘actively seeking work’ are now the main reasons for JSA sanctions**

There continue to be quite rapid changes in the relative importance of different ‘failures’. Failure to participate in a training or employment scheme, mostly the Work Programme, is now the most frequently occurring reason, followed by ‘not actively seeking work’. Missing an advisory interview is now a distant third, having fallen greatly since October 2012.

**(Figure 7)**

- There have been fluctuations in the number of sanctions for failure to participate in training or employment programmes (including the Work Programme). It is now clear that these were due to administrative issues arising from the transfer of responsibility for initiating sanctions to private contractors. These sanctions have risen from 102,000 in the last year of the previous government to 275,000 in the latest 12 months, and an annual rate of 349,000 in the latest three months. Overall, these sanctions are now applied to over 2% of unemployed claimants per month. This contrasts with a previous level of 0.5% or less. **(Figure 8)**
- There has been a continuing huge increase in sanctions for ‘not actively seeking work’, which rarely means what it says but usually means that the claimant has not applied for as many jobs as the adviser instructs, or has not documented their applications sufficiently. These penalties have now reached 308,000 in the latest 12 months, and an annual rate of 328,000 in the latest three months, compared to 60,000 per year before the Coalition – an increase of more than five times. **(Figure 9)**
- From a low level, the Coalition has brought about a huge increase in sanctions for failure to carry out a Jobseeker’s Direction, from under 4,000 per year before the Coalition to 29,000 per year. The increase is continuing. **(Figure 10)**
- Sanctions for refusing (or ‘neglect to avail’ of) a job opportunity doubled under the Coalition, from around 3,000 per month to over 6,000. However they have fallen off sharply since October 2012, to well under 2,000 per month in recent months. 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. The sharp fall in job offers coincided with the increased penalties of October 2012. **(Figure 11)**

- In contrast to most types of sanction, those for not attending or being late for advisory interviews have fallen off sharply, to below the level of 1% of claimants per month seen before John Hutton drove up sanctions from 2006 onwards. However, there are still 168,000 of these sanctions per year and they are now for 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. **(Figure 12)**
- 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 since the start of the present recession they have hardly featured at all, and this continues to be the case. Abundant historical evidence shows that 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 employment has also been historically important but this type of disqualification has run at only around 1,000 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.

### **Reasons for ESA sanctions**

- Among the 19,325 ESA claimants sanctioned in the 10-month period 3 December 2012 to 30 September 2013, three-quarters (75%) have been penalised for not participating in work-related activity, and the remainder for missing or being late for an interview.

### **The Work Programme: Twice as many sanctions as job outcomes**

- To date, Work Programme contractors have been responsible for twice as many sanctions on the people referred to them as they have produced job outcomes: 394,759 sanctions and 198,750 job outcomes. **(Figure 13)** A ‘job outcome’ is a job placement which lasts for a certain minimum period.

### **Cancelled referrals from Work Programme contractors indicate defective paperwork on a big scale**

The Work Programme has given rise to large numbers of cancelled decisions **(Figure 14)**. The Work Programme is responsible for about 30,000 of these a month, compared to 10,000 per month for all other reasons. About 40% of Work Programme contractors’ referrals are cancelled, compared to 10% of referrals made by DWP staff. Sanction referrals are cancelled either (a) because at the time of the referral the claimant is no longer claiming or is ineligible for JSA, or (b) because the paperwork for the referral has not been properly completed.

The evidence suggests that the high level of Work Programme cancellations is substantially because of defective paperwork by Work Programme contractors.

There are bound to be more cancellations of referrals by Work Programme contractors than of those by DWP staff, because the delay between a claimant being allocated to a contractor and their first meeting means that some will have stopped claiming in the interim. However, monthly off-flows of all JSA claimants on the register for between 12 and 15 months (the group who are referred to the Work Programme) are only around 10,000, and monthly referrals of new claimants to the Work Programme are only around 25,000. Therefore claimants ceasing their claims cannot be the main reason for a level of cancellations of 30,000 per month.

What does appear to be the key explanation was revealed in a DWP Work Programme *Live Running Memo No.138* dated 6 December 2013, addressed to Work Programme providers, at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/269251/work-programme-memo-138.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/269251/work-programme-memo-138.pdf)

This states, in paras 1 and 2, ‘Issues have continued to arise regarding incorrect or incomplete WP08 DMA referral forms. This in turn has led to a significant number of these referrals being cancelled.....’ DWP has provided Work Programme contractors with a ‘child’s guide’ to how to fill in the forms, at <https://www.gov.uk/government/publications/work-programme-wp08-provider-tools>.

In other words, it appears that Work Programme contractors are making mistakes in their paperwork on a big scale – even though one of the things they are supposed to help claimants with is filling in forms. Claimants are being given severe sanctions for making similar mistakes.

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**A note on the controversy following Archbishop Nichols’ comments:**

There is clearly a lot of confusion about the role of sanctions in creating destitution. The current regime under which sanctioned claimants lose all their benefits and, unless in an arbitrarily defined ‘vulnerable’ group, are not allowed even to apply for discretionary ‘hardship payments’ for the first two weeks, has been in force since October 1996. What has changed dramatically in recent years is the number and length of sanctions. Prior to the Jobseekers Act 1995, sanctioned claimants were entitled to a reduced rate of Income Support or Supplementary Benefit as of right from the start, assessed on the normal rules.

Figure 1

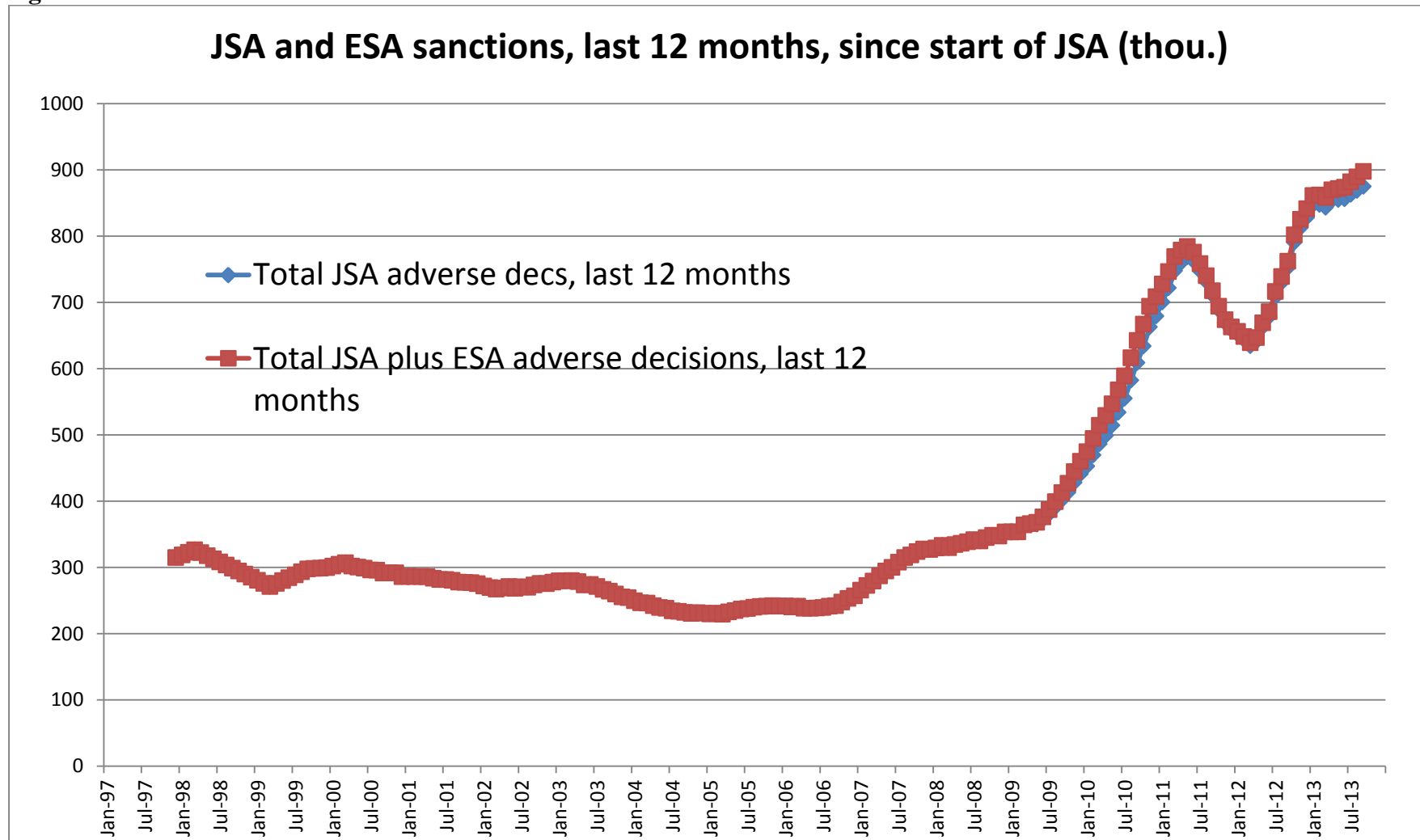


Figure 2

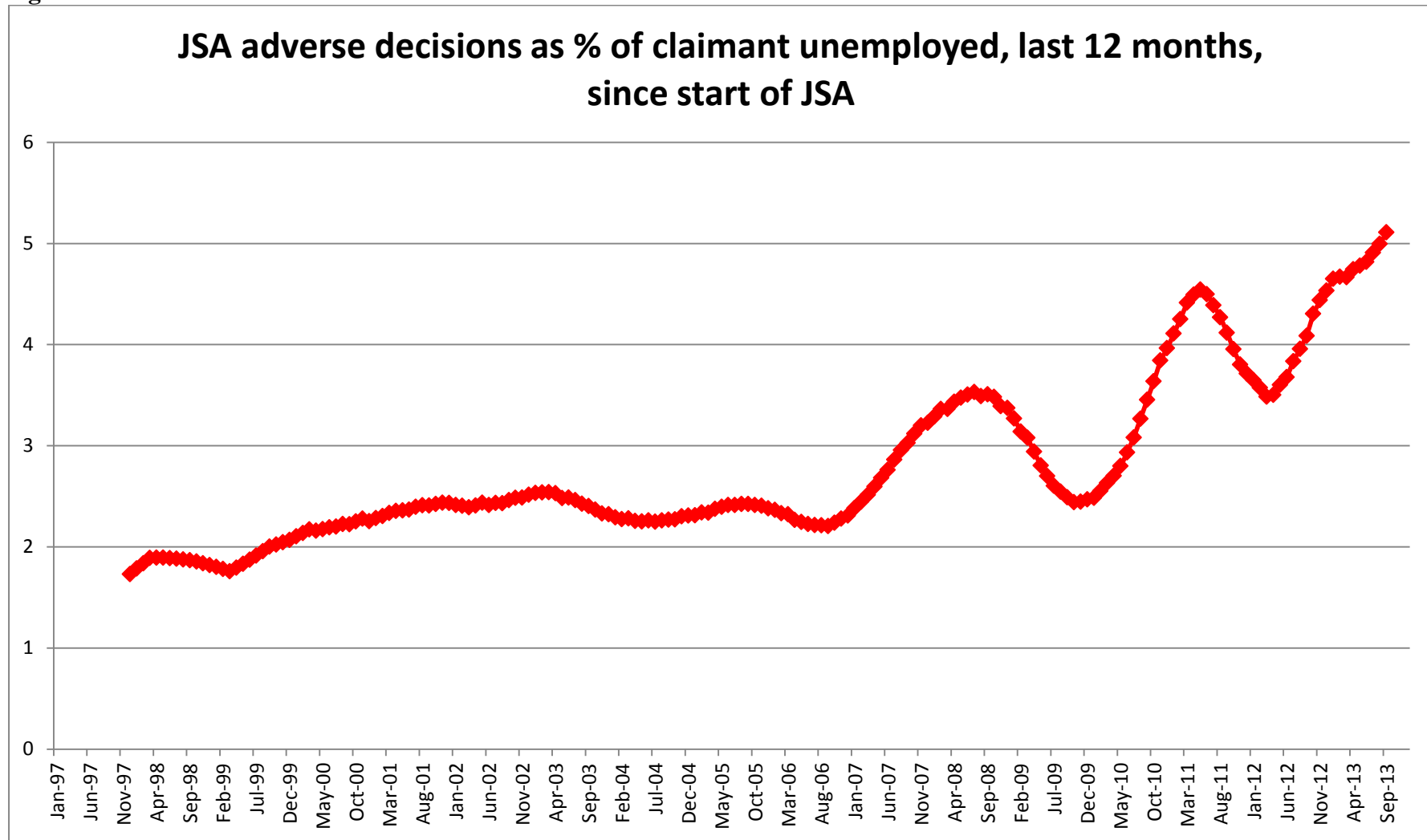


Figure 3

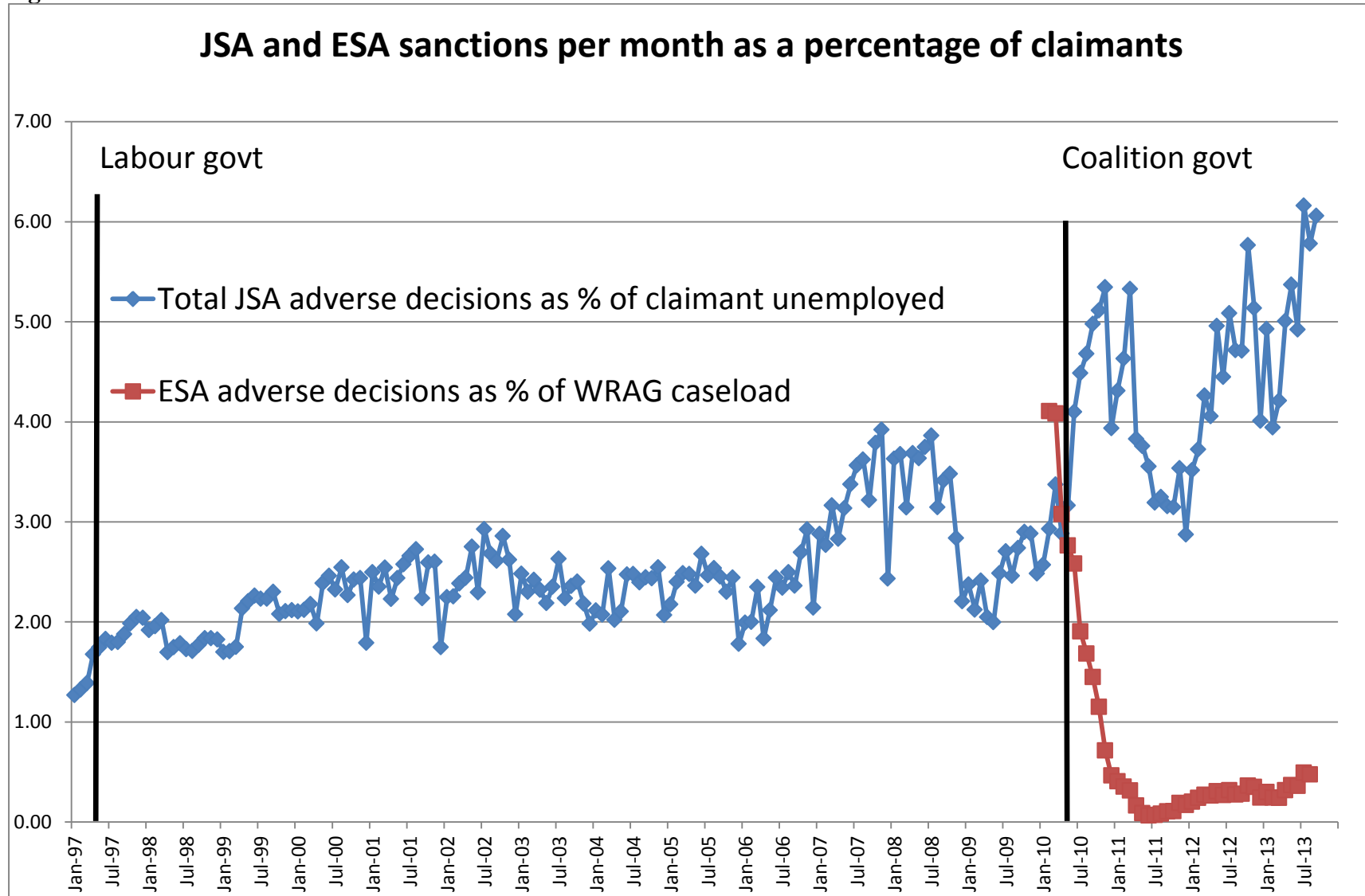




Figure 4

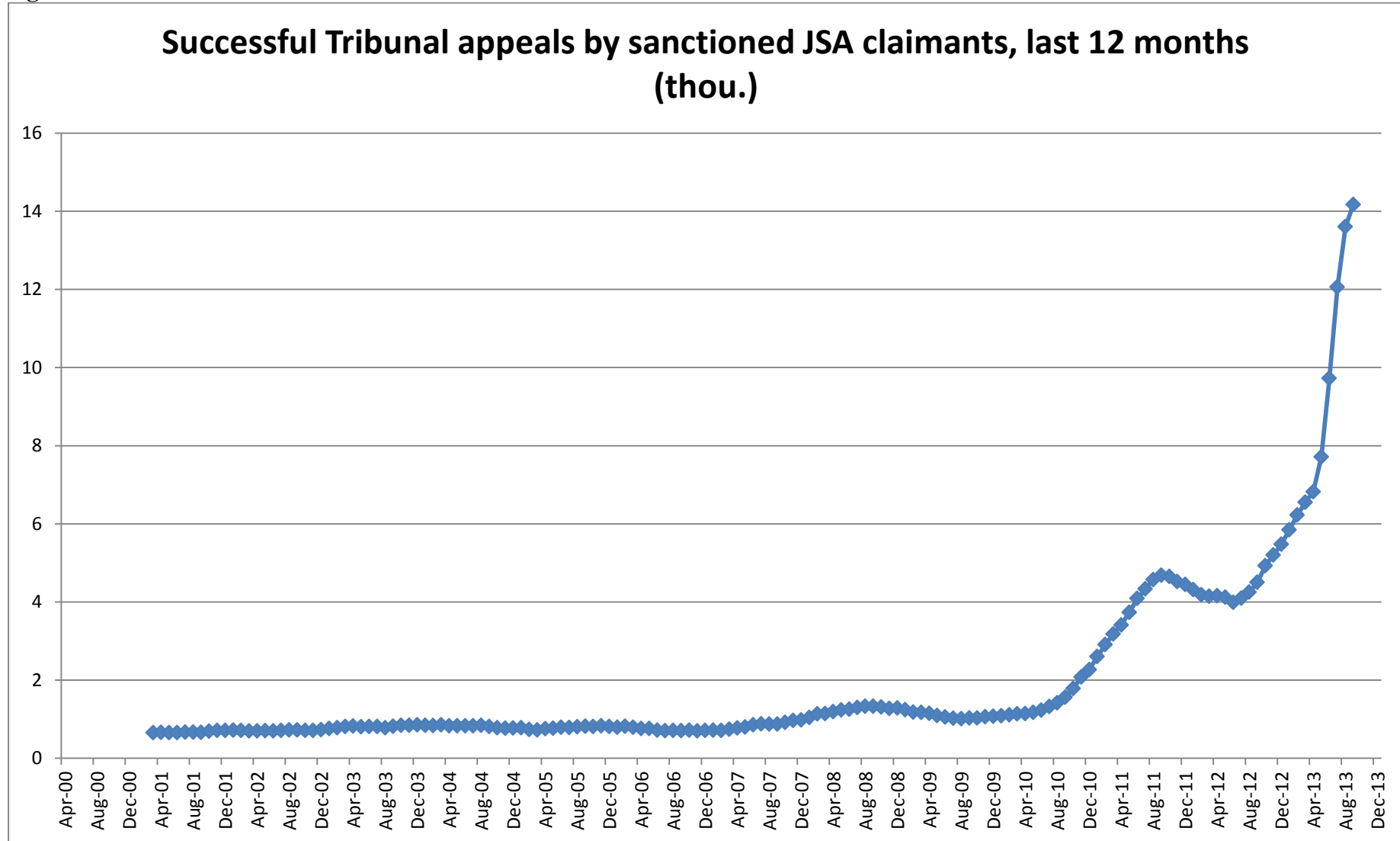


Figure 5

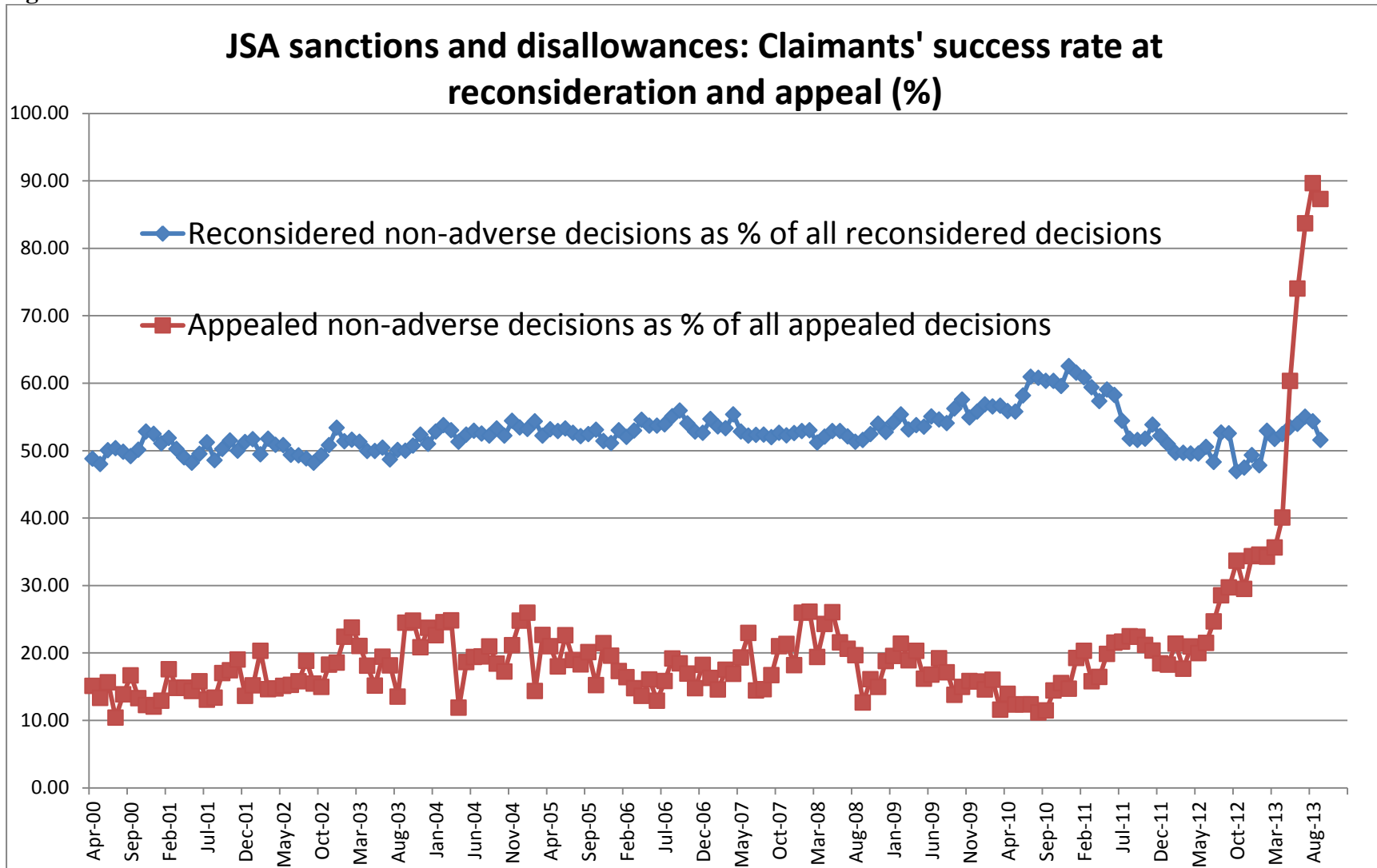


Figure 6

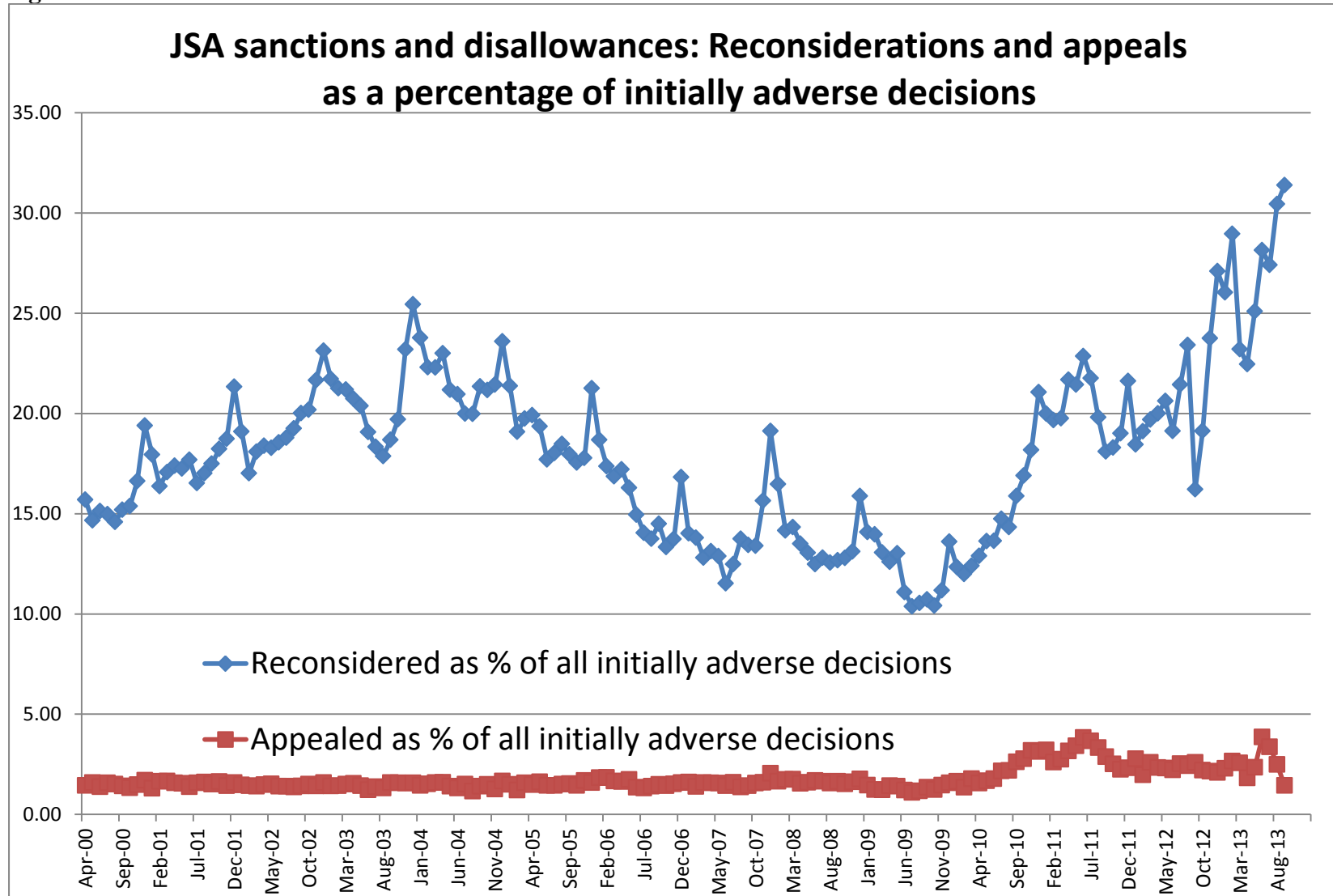


Figure 7

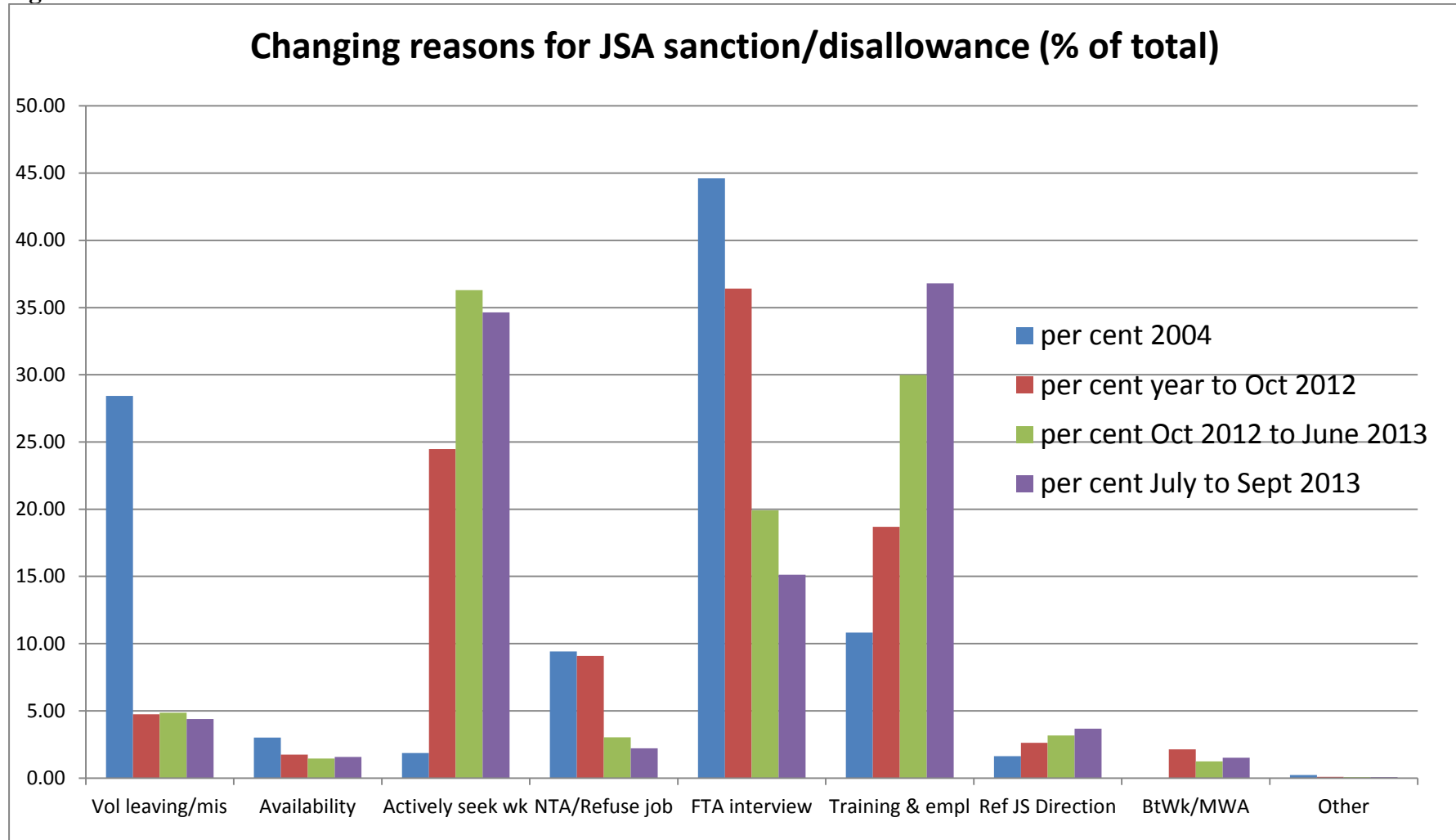


Figure 8

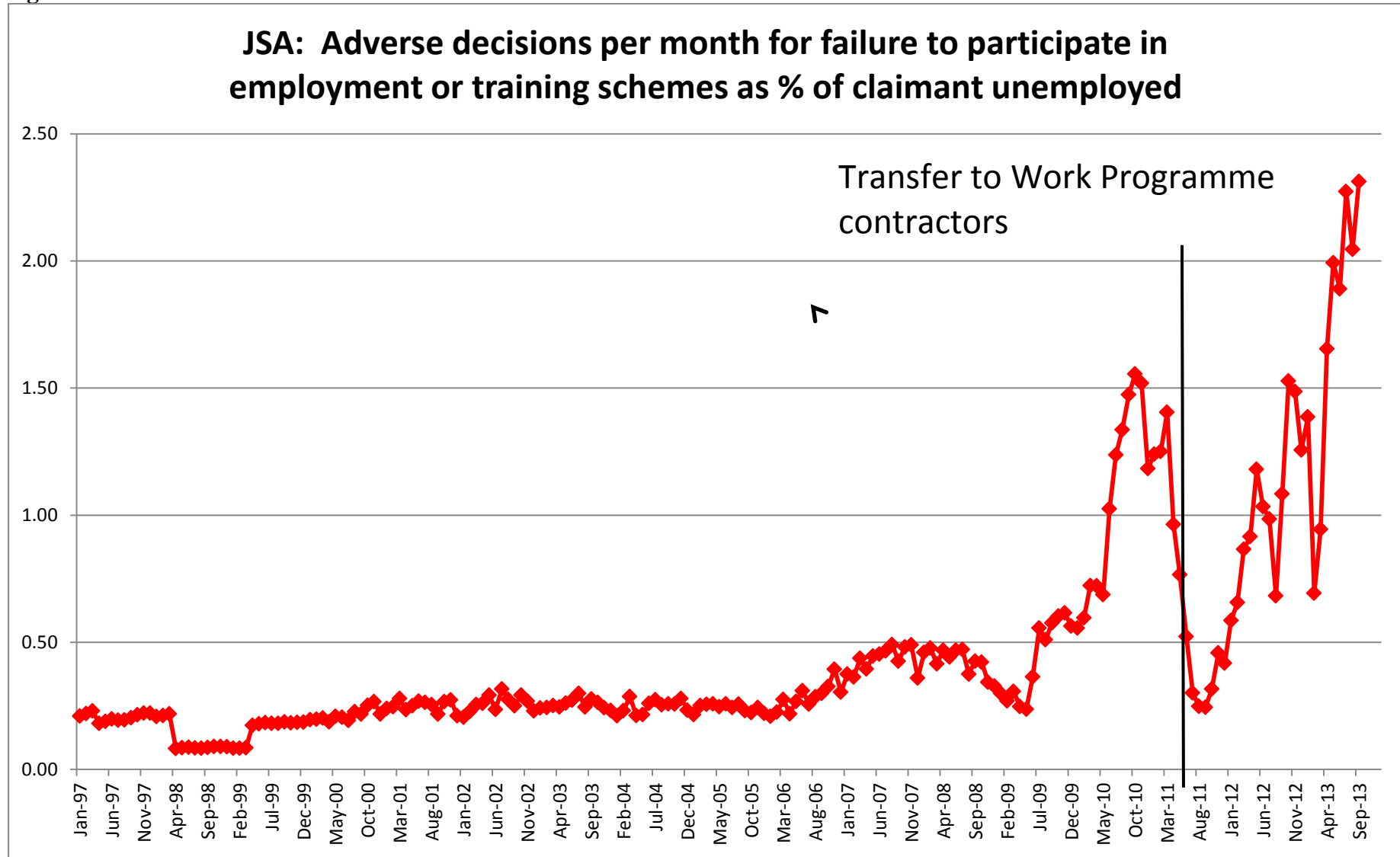


Figure 9

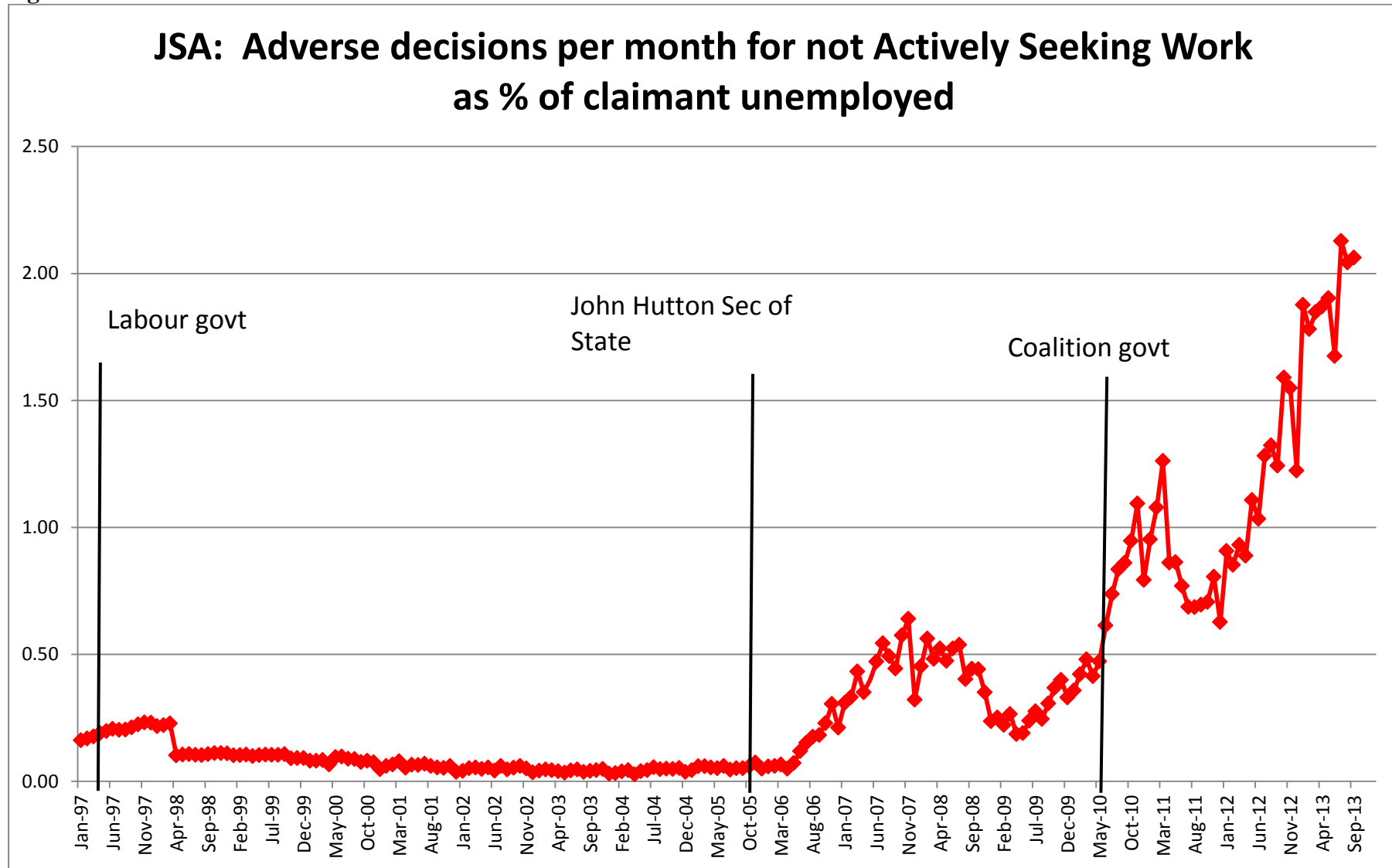


Figure 10

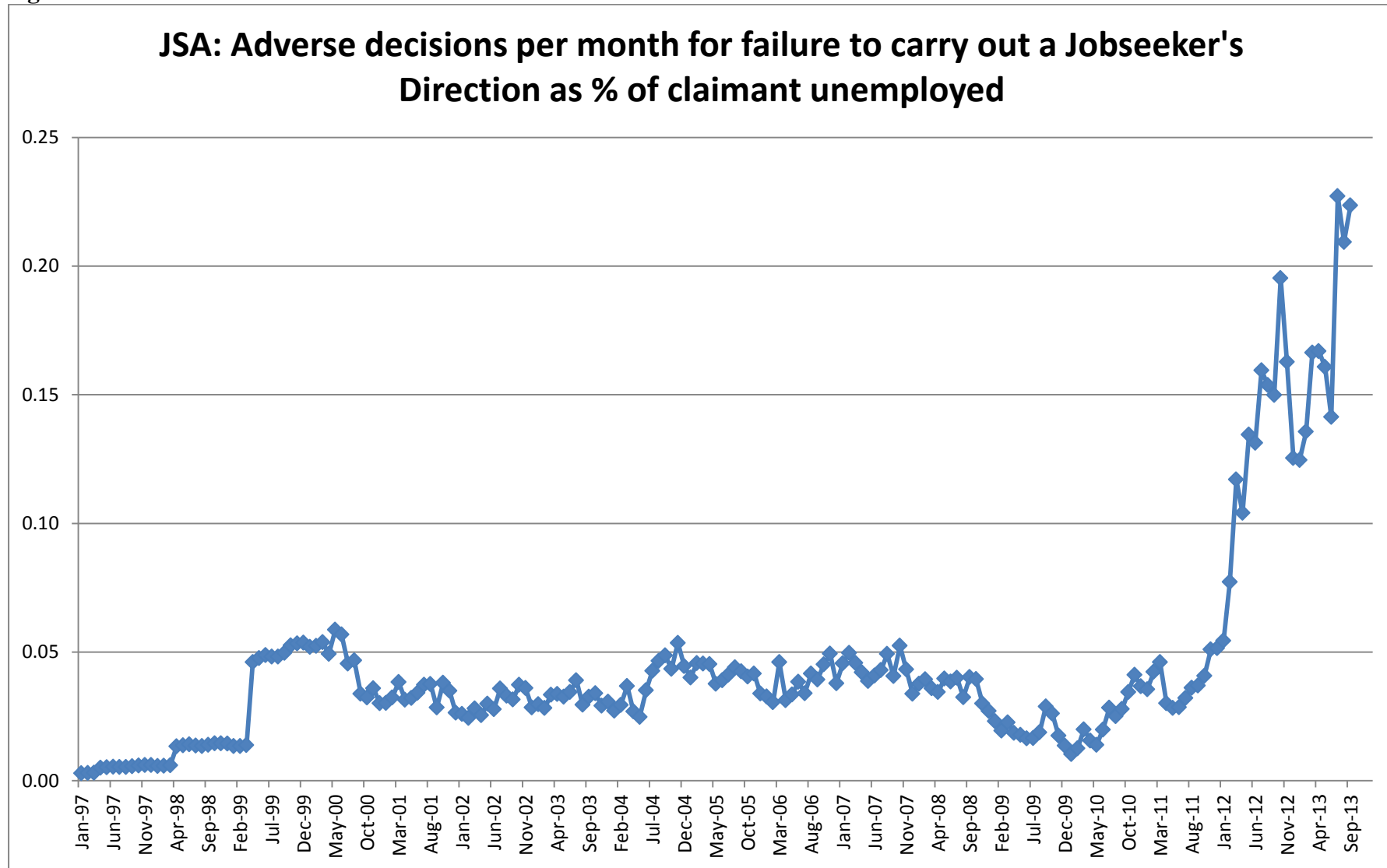


Figure 11

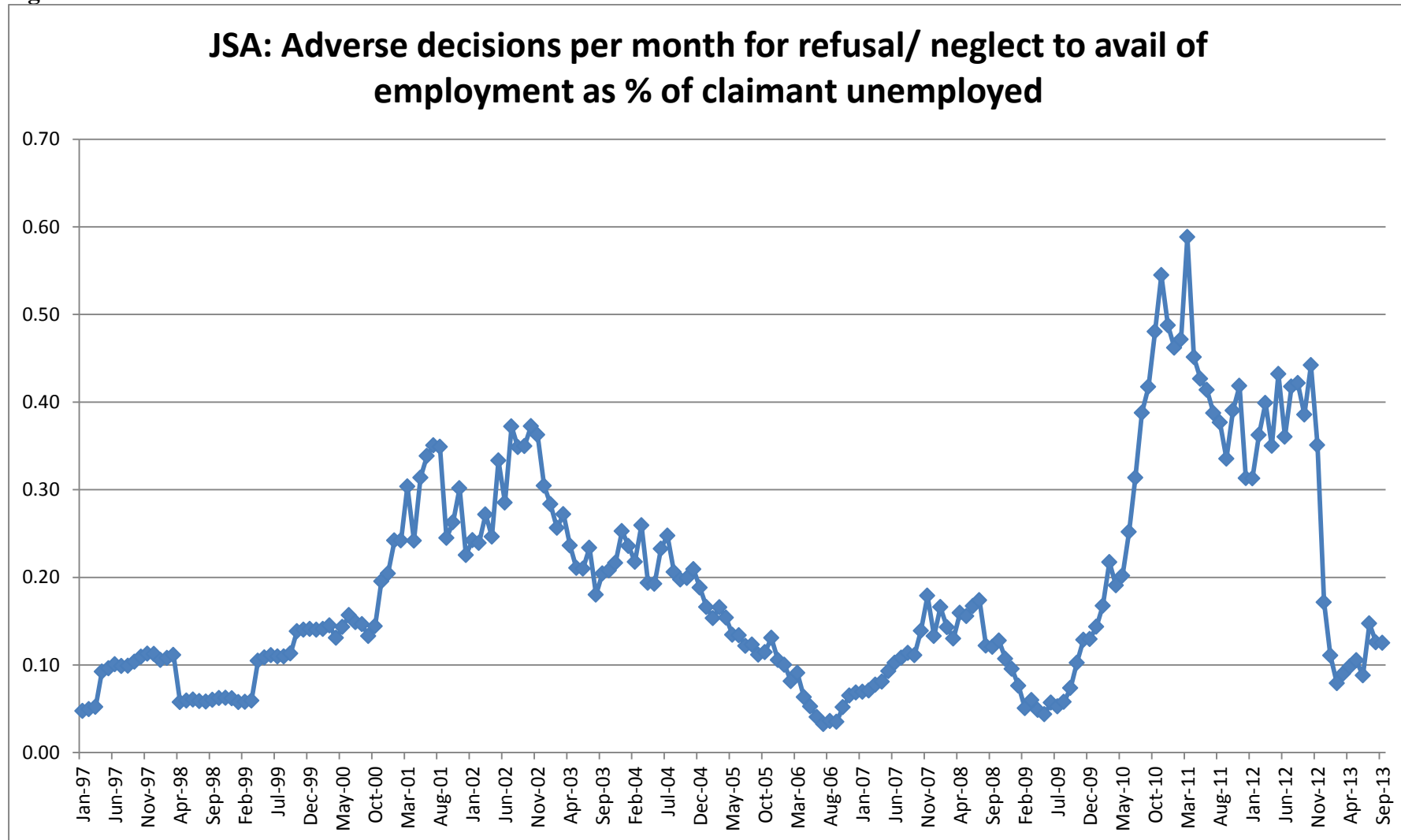




Figure 12

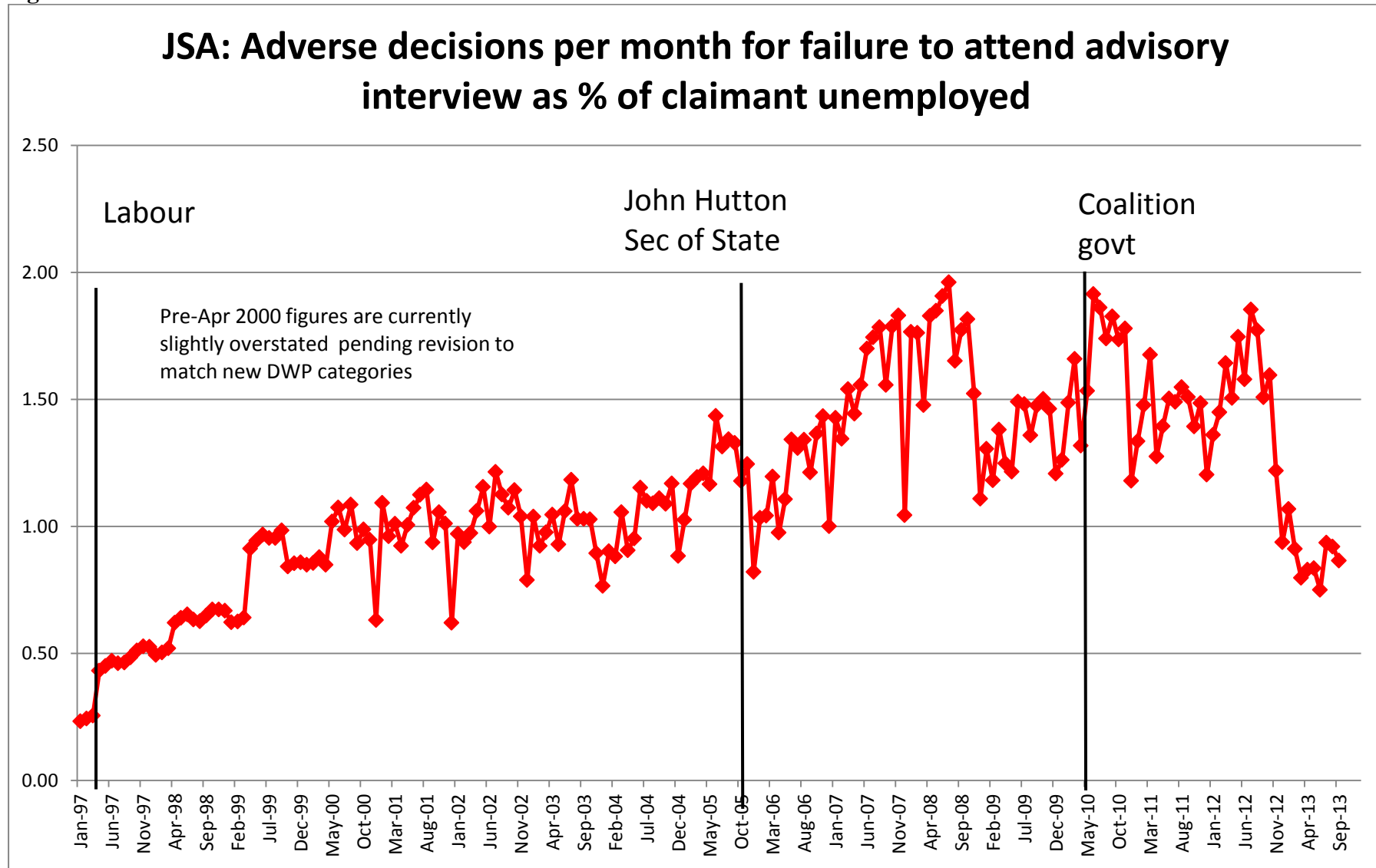


Figure 13

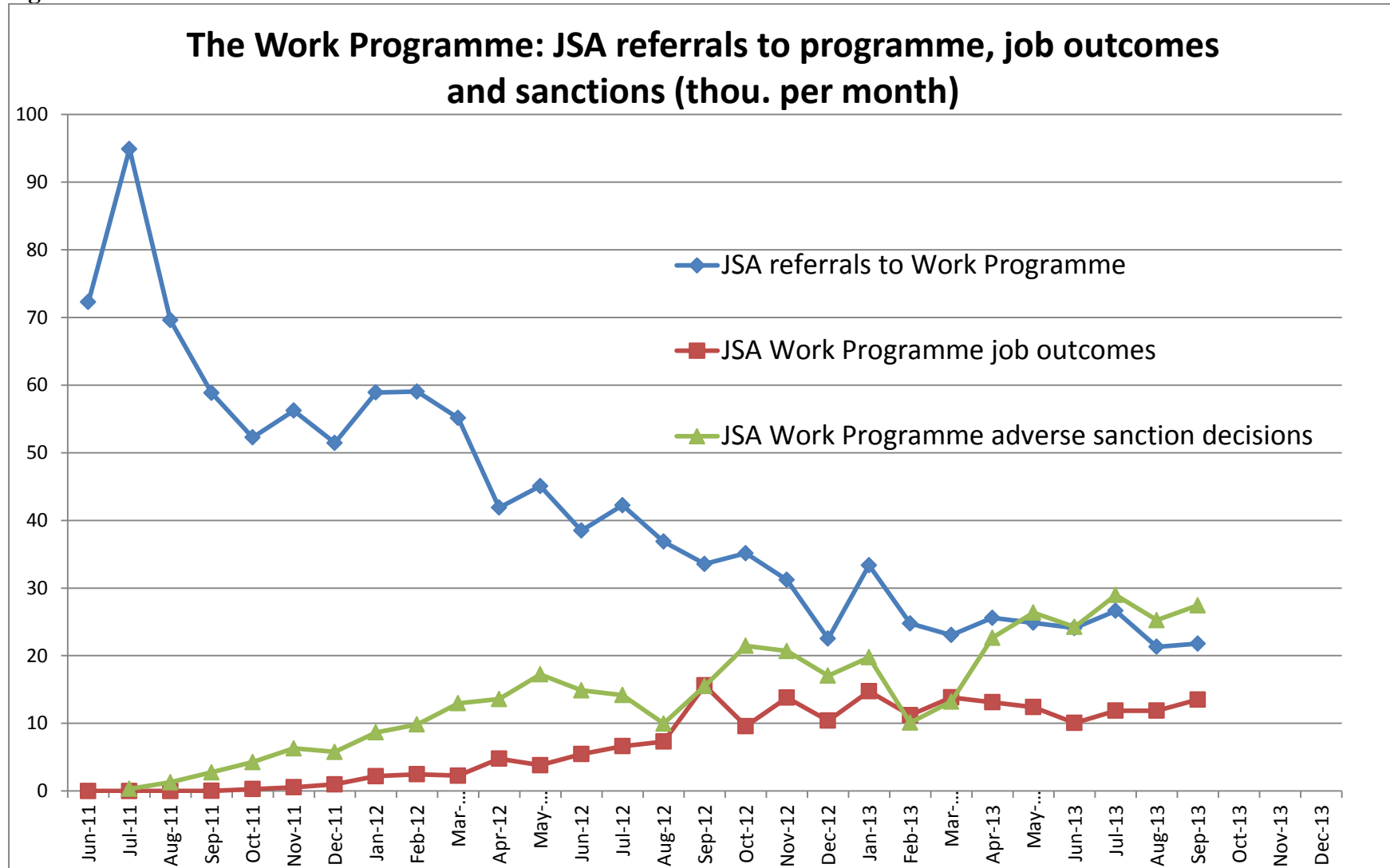


Figure 14

