

House of Commons Work and Pensions Committee

INQUIRY INTO BENEFIT SANCTIONS POLICY BEYOND THE OAKLEY REVIEW

Evidence submitted by

Dr David Webster

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SUMMARY

This submission follows earlier submissions on JSA sanctions by the author to the Committee's *Inquiry into the Role of Jobcentre Plus in the reformed welfare system*. It updates the main facts and figures about JSA and ESA sanctions; corrects misrepresentations about sanctions by Ministers and officials; points out that many of the Oakley review's recommendations are not being acted upon; exposes the weaknesses in the justifications which the DWP and its predecessors have put forward for their sanctions regime; and argues that the system of sanctions imposed by officials should be scrapped. Sanctions are not an evidence-based system designed to promote the employment, wellbeing and development of the labour force. This is a chaotic system, based on ideology and characterised by cruelty, incompetence, inefficiency, malpractice and dishonesty, which is doing immense damage to the least privileged in our society, and working against many other public and voluntary programmes aimed at addressing social ills. A combination of 'silo' thinking by officials in the DWP and its predecessors, and ideological gestures by politicians, has led to the growth of what is a huge secret penal system, rivalling in its severity the mainstream judicial system but without the latter's safeguards. Sanctions should simply be abolished. Entitlement conditions would have to remain, but they should be based on respect for the claimant and accompanied by an effective safety net for those who do not meet them. 'Active labour market policies' which have something to offer the claimant would carry on and indeed be enhanced by the removal of threat and compulsion.

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Introduction

1. I submitted evidence on JSA sanctions during 2013 to the Committee's earlier *Inquiry into the Role of Jobcentre Plus in the reformed welfare system*,¹ which remains relevant. Since then I have produced further papers on JSA and ESA sanctions (**Appendix**). Where statements made here are not supported by specific references, substantiation will be found in these papers, which also contain other relevant material.

2. The purpose of this further submission is to:-

- Update the main facts and figures about JSA and ESA sanctions
- Correct misrepresentations about sanctions by Ministers and officials
- Point out that many of Oakley's recommendations are not being implemented
- To expose how weak is the DWP's rationale for its sanctions regime
- To argue that the system of sanctions imposed by officials should be scrapped.

JSA and ESA sanctions: The key facts

3. The DWP's published statistics on 'adverse decisions' systematically understate both JSA and ESA sanctions, because they remove cases which are overturned on reconsideration or appeal. Yet these overturned sanctions can do quite as much damage as those that are not overturned.² The true total of JSA and ESA sanctions before reconsiderations/appeals in the year to June 2014 was an estimated 1,030,000 (**Figure 1**). The Committee's previous report used statistics running to June 2013. The further year's data shows a further rise in JSA sanctions before reconsiderations or appeals from about 6 per cent of claimants per month to about 7 per cent, and after reconsideration/appeal from about 5 per cent to about 6 per cent (**Figure 2**). These are by far the highest rates since JSA was introduced in 1996. The monthly *rate* of JSA sanctions has stabilised, while the total *number* has started to fall, reflecting the fall in the claimant count.

4. Under the Coalition the main reason for JSA sanctions has been 'not actively seeking work',³ followed by 'failure to participate in the Work Programme'⁴ (**Figure 3**). By June 2014 the Work Programme had produced 312,780 JSA job outcomes and 545,873 JSA sanctions.

5. ESA sanctions have escalated rapidly since mid-2013, reaching over 1 per cent of WRAG claimants per month before reconsiderations/appeals in June 2014. The rise is entirely due to 'failure to participate in work related activity' (**Figure 4**). Changes in the WCA have meant

that people in the WRAG as a whole have probably been becoming fitter, and this may have led to more demands being reasonably placed on them. But an important recent study (Hale 2014) suggests that a more likely explanation is that the DWP is making more unreasonable demands.⁵ Sanctions themselves make inappropriate referrals more likely, since staff do not have to bother to consider the claimant's needs.

6. The DWP has still published no figures on Mandatory Reconsiderations, introduced on 28 October 2013. Mandatory Reconsideration appears to have caused a collapse in Tribunal appeals. Only 23 Tribunal decisions on JSA and ESA sanctions were reported in the second quarter of 2014, compared to a normal monthly rate into the thousands. If this is due to delays in decisions, or to the increased burden on claimants, rather to an increase in decisions favourable to claimants, then it is causing further injustice and hardship. There were already severe delays: over 25,000 claimants receiving (pre-mandatory) reconsideration decisions in May and June 2014 had waited at least 6 months.⁶ Oakley recommended set timescales for decisions on sanctions referrals and reconsiderations. The government accepted this but has not set a date. The statistics underline how difficult it will be to establish reasonable timescales if present sanction rates continue.⁷

Particular groups of people who are more likely to be sanctioned

7. Young people aged 18-24 incur JSA sanctions at twice the rate of other groups.⁸ Risk declines with age. Men are almost 50 per cent more likely to be sanctioned than women.⁹ Ethnic minorities are at higher risk of sanctions, and disabled JSA claimants at higher risk of repeat sanctions. The framework for disability monitoring is inadequate.¹⁰ The rate of sanctions for ESA WRAG claimants with mental and behavioural conditions is one third (33%) higher than for those with other conditions.¹¹

8. Homeless people are also at greater risk, although there are no relevant statistics. This is because they lack a stable address and their situation makes them less able to cope.¹²

The negative effects of sanctions

9. Official research on the impact of sanctions on individuals is inadequate. Ministers are still relying on a study (Peters & Joyce 2006) for which the fieldwork was carried out in 2005, when the rate of sanctions was under half its current level. At that time disallowances for voluntary leaving and misconduct accounted for over a quarter (28 per cent) of all sanctions and disallowances; this group of claimants is different, because they have just had a job, are better resourced and are often eligible for contributory benefit. Moreover the researchers failed to contact one third of their selected sample, ensuring that vulnerable groups such as homeless people were not represented.

10. Nevertheless a large body of research indicates that sanctions have many damaging effects.¹³ Those who suffer most are the people who are most disadvantaged to start with, and have no financial or family resources to fall back on. Sanctions weaken their position further. Poor people tend to be in a state of crisis much of the time, and sanctions add a further crisis.

Misrepresentations of the sanctions system

11. DWP Ministers and officials frequently misrepresent the sanctions system. The following are some examples.

'A tiny minority'

12. DWP claims that 'Sanctions are only used for a tiny minority who don't follow the rules'.¹⁴ The Employment Minister Esther McVey claimed that 'The vast, vast majority of people don't get sanctions.'¹⁵ In fact, one fifth (19%) of JSA claimants were sanctioned in the five years 2008-12.¹⁶ This is an underestimate as it does not include sanctions overturned on reconsideration or appeal, and the proportion will be higher now, probably around a quarter.¹⁷

Repeat sanctions

13. The Explanatory Memorandum to the October 2012 Regulations claimed (para. 7.1) that 'Of those who are sanctioned the vast majority receive just one sanction during their claim'. Many unemployed people have repeated spells of unemployment and may be sanctioned during any one of them; and in the commonest type of sanction, for not seeking work, the DWP closes the claim, ensuring that there cannot be a further sanction during it. But in any case, multiple sanctions are common.

14. All the following are underestimates, as already explained. During the new regime from 22 October 2012 to 30 June 2014, the average number of sanctions per sanctioned individual was 1.73. From April 2000 to June 2014 the average was 2.04. Half a million people (41.1%) received two sanctions, and 21.5 per cent more than two. There were 46,328 people who received ten or more sanctions, on average 13.2 each.

15. The excess during each month of the number of sanctions over the number of sanctioned individuals has been growing, indicating more repeat sanctions *within the same month*. From 2000 to 2005, it was around 1,000. This means that at most around one thousand individuals received more than one sanction in the month. But the Coalition pushed the number up to 6,000, and then further to hit 12,000 in October 2013. In the latest quarter it was 7,000.¹⁸

'A last resort': Sanctions by duration of unemployment:

16. The DWP's Permanent Under Secretary, Robert Devereux, and Work Services Director, Neil Couling, claimed to the Public Accounts Committee that sanctions become more frequent the longer claimants go on claiming, because the DWP 'does more work' with longer standing claimants.¹⁹ The DWP also frequently claims that sanctions are 'a last resort'.²⁰ Esther McVey claimed 'Sanctions are only applied in the most serious cases..... We'll do everything to stop you having a sanction'.²¹ For the last couple of years such assertions could not be challenged because the DWP had stopped publishing the relevant data. But the recent FoI response 2014-4134 shows they are incorrect. **Figure 5** shows that the probability of sanction is the same irrespective of duration of claim.²²

Alleged wilfulness of sanctioned claimants

17. Esther McVey claimed 'The people who get sanctions are wilfully rejecting support for no good reason'.²³ After examining the relevant research the Scottish Government concluded 'Research shows that claimants who face sanction are often unable to comply with conditions rather than unwilling'.²⁴

‘Over half of JSA claimants say they are more likely to look for work because of the threat of sanctions’

18. Peters & Joyce (2006, p.6) found that ‘just over two-fifths of (sanctioned) respondents said they were more likely to look for work as a result of benefit sanctions’. Gregg (2008, p.32), in his official review for the Labour government, misreported this as ‘*Over half* (emphasis added) of JSA claimants say that they are more likely to look for work because of the threat of sanctions’. The DWP (2008a, p.4), in a major policy review of sanctions, repeated this mistake in identical wording. The mistake was then again repeated, to both Houses of Parliament, in the debates on the 2012 sanctions regulations, as one of the main justifications for them,²⁵ although the Explanatory Memorandum reported the figure correctly.

19. The figures quoted did not have their apparent significance in the first place. As noted earlier, when Peters & Joyce did their fieldwork, 28 per cent of sanctions/disqualifications were for voluntary leaving or misconduct. These claimants will obviously say that not drawing benefit will make them more likely to look for work. But by 2013 this proportion had fallen to 4.4 per cent.

‘More likely to follow the rules’

20. More recently, Ministers have taken to claiming that ‘Seventy-two per cent of claimants say that they are more likely to follow the rules due to the presence of sanctions’.²⁶ The report from which this is taken²⁷ does indeed show this. But later on the same page this report states: ‘there was no evidence from the survey that knowledge of JSA conditions led to actual movement into work’.

Impact on the voluntary sector

21. Over the last couple of years, a large volume of evidence has shown that sanctions are having a massive impact on the voluntary sector, diverting their resources to firefighting and disrupting their work with service users. Yet the Explanatory Memorandum to the 2012 Regulations, which drastically increased the severity of sanctions, stated: ‘A full impact assessment has not been prepared for this instrument since it has no impact on the private sector or civil society organisations’.²⁸

The Oakley Review

22. The Committee’s major concern about the Oakley Review has been its limited scope. However it is important to realise that the majority of its recommendations are not being acted upon. The government has claimed that it has accepted all the recommendations, and at the time of writing this statement still stands on the DWP website.²⁹ But the correct position was stated by Lord Freud on 4 November: ‘We are considering all recommendations made by the Oakley Report and we have already implemented a number of improvements.....*We will look at the remaining recommendations*’ (emphasis added).³⁰

23. The following key Oakley recommendations have been rejected by the Government:

- Assess new claimants’ needs properly
- End conflicting requirements on claimants by Jobcentre Plus and external contractors

- Improve communications between Jobcentre Plus and contractors
- Allow contractors to consider ‘good reason’ for non-attendance at interviews etc., thus avoiding huge waste through unnecessary referrals
- Pilot warning letters

24. Various others have been accepted without a timetable, or are merely receiving consideration.³¹

The DWP’s rationale for sanctions

25. Sanctions have become part of what J.K.Galbraith called the ‘conventional wisdom’. But there is no rational basis for the current UK regime. Although there is evidence of an effect in getting people off JSA, and weaker evidence of small effects in getting people into jobs, there is a huge amount of evidence of offsetting negative effects. DWP never refers to these even though its own research frequently shows them. There is no consideration of knock-on effects on other public services. There has never been any DWP or official attempt to make an overall assessment of costs and benefits of sanctions. There has also never been any serious consideration of alternative ways of influencing behaviour.

26. I am currently reviewing the rationale which has been offered by UK ministers or officials in support of sanctions. This work is not complete but the following are some key points to emerge to date.

Oakley on sanctions

27. The DWP is currently claiming that ‘The recent independent Oakley review confirmed that (sanctions) are vital to a properly functioning welfare system’.³² While Oakley did make a passing comment on this point,³³ his review did not consider the question at all and indeed it was outside his terms of reference.

Lengthening of disqualifications for voluntary leaving and misconduct

28. As of 1986, 98 per cent of disqualifications/sanctions were for ‘voluntary leaving’ or ‘misconduct’, and the maximum length since 1913 had been 6 weeks. Ministers noticed that these disqualifications were rising during the economic recovery when they thought they should be falling. So they increased the maximum penalty to 13 weeks in 1986. Internal monitoring indicated that this had hardly any effect.³⁴ They then increased it to 26 weeks in 1988. A further study then found that the further increase had little effect either.³⁵ The Employment Service’s official historian concluded ‘The new severe penalty probably made the labour market more rigid rather than more flexible... Ministers would have done better to revisit their decision’.³⁶ The 26 weeks remained in place until October 2012, when it was changed to 13 weeks for a first ‘failure’, 26 weeks for a second and 156 weeks for a third. No evidence was offered by DWP for this new scale.

29. As noted in this author’s earlier papers,³⁷ voluntary leaving goes down in a recession and rises in a boom, simply because people are more willing to give up a job when it is easier to get another. There is no point to lengthened sanctions at all.

Severity of sanctions

30. More generally, there is no evidence to support the extreme severity of the UK sanctions regime, in terms of amount of loss and duration. Gregg (2008, p.41), for instance, cited Abbring et al. (2005) and van den Berg et al. (2004) to support his claim that sanctions 'work'. The Netherlands sanctions studied by Abbring ranged from around 5% of the previous wage for 4 weeks, to 25 or 30% for 13 weeks. Those studied by Van den Berg were a maximum 20% reduction in benefits for one or two months. The German 'Harz' system also involves only percentage reductions.³⁸ Svarer (2011, p.756) reported that 88% of the Danish sanctions he studied were for only 2-3 days. There appears to be no evidence that heavy sanctions are more efficacious than mild ones, and in fact the point does not seem to have been researched at all, except for DSS (1989) already quoted, which showed the opposite.

Escalation of sanctions for repeat 'failures'

31. There appears to be no evidence to support the idea of increased penalties for repeated failures. This appears to be based solely on *a priori* reasoning arising from a 'punishment' model of sanctions.³⁹

Increases in the penalty for missed interviews

32. In April 2010 the Labour government changed the penalty for missing an interview from 'disentitlement' (closing the claim) to a minimum one-week sanction. Its White Paper (DWP 2008b, p.113) justified this as follows: 'As a result of people failing to attend appointments or work programmes, there are around 12,000 Jobseeker's Allowance claim terminations per month. Many job seekers return shortly after their claim has been closed down to start a new Jobseeker's Allowance claim. In this costly process of termination and reclaim, only one or two days of benefit are lost to the claimant, which is a poor deterrent at a high administrative cost'. This is vague where it should be precise, and does not add up to a justification of the change. How many missed appointments (as opposed to non-attendance at work programmes) were there? In how many of the terminated cases did the claimant actually have a good reason? Why was no research done on this?⁴⁰ How many jobseekers returned 'shortly after', and how shortly was 'shortly' in practice? And why has there never been any evaluation whether the change actually improved attendance?⁴¹

33. The Coalition in October 2012 increased the sanction further, to four weeks/13 weeks. It offered no justification and has done no evaluation.

'Toughness' of caseworkers

34. The DWP (2014a, p.1) claimed to the Scottish Parliament Welfare Reform Committee that Swiss evidence indicates that "tough" rather than co-operative attitudes of caseworkers' were among four factors which could raise employment rates. The paper on which this was based (Behnke et al. 2010) actually found that claimants assigned to 'unco-operative' caseworkers had a *lower* likelihood of employment. The conclusion that 'unco-operative' caseworkers were more effective was based on statistical modelling. This is questionable for several reasons including problems in translating between the three Swiss languages, and the fact that disadvantaged jobseekers were more likely to have 'unco-operative' caseworkers. Moreover, the authors concluded that the hypothetical positive effects of 'unco-

operativeness' were 'not due to an increased use of instruments such as sanctions'. The caseworkers labelled 'unco-operative' (on the basis of a single question in an attitude survey⁴²) did not have a statistically significantly greater likelihood of imposing sanctions. So this evidence provides no support for sanctions or for 'toughness' as practised by DWP.

'JSA reduced the claimant count by about 8 percentage points'

35. DWP (2008a, p.2) has claimed that 'the Jobseekers Allowance regime reduced the claimant count by about 8 percentage points.' The paper on which this was based (Manning 2009) actually states that 'JSA resulted in large flows out of claimant status, but...not primarily into employment.' Sanctions also push people into unsuitable, unsustainable jobs (Petrongolo 2009, Arni et al. 2012). During the current recovery UK has had an unprecedented growth of low productivity jobs and in-work poverty – a worsening of the low pay, no pay cycle, with twice as many workers on the minimum wage as in 1999 (Corlett & Whittaker 2014), and UK labour costs now lower than Spain's.⁴³

Hardship payments

36. Up to 1988 all disqualified claimants were entitled to Supplementary Benefit reduced by 40% but assessed on the normal rules. For non-contributory claimants, Michael Portillo removed the entitlement to what became Income Support and introduced discretionary hardship payments. He and Peter Lilley then extended this to contributory claimants in 1996. 'Hardship payment' is yet another misnomer, since its design ensures that those who are already poor certainly will suffer hardship. 'Vulnerable' claimants can apply immediately, but most have to wait two weeks before they can even apply. The official DWP Decision Makers' Guide⁴⁴ acknowledges that the two week wait will often damage the claimant's health.⁴⁵ The criteria for 'hardship' are specific to the sanctions regime and are particularly harsh – for instance, a person with cash in hand equal to their 'applicable amount' will be refused even if the money is owed to a payday lender.⁴⁶ They are designed to ensure that the claimant has no other resources left and has exhausted any possible assistance from family and friends, thus destroying their resilience.⁴⁷

37. The design of this system was not based on any evidence and it has never been subject to any evaluation. It appears that politicians and policy makers have taken at face value official statements that the provisions are designed to prevent hardship, and assumed that they do. Gregg (2008) is an example of this: he stated⁴⁸ that sanctions should not cause 'excessive hardship' but did not consider any evidence or make any relevant recommendations.

Abolition of the sanctions system

38. It is clear that sanctions are not an evidence-based system designed to promote the employment, wellbeing and development of the labour force. This is a chaotic system, based on ideology and characterised by cruelty, incompetence, inefficiency, malpractice and dishonesty, which is doing immense damage to the least privileged in our society, and working against many other public and voluntary programmes aimed at addressing social ills.

39. A combination of 'silo' thinking by officials in the DWP and its predecessors, and ideological gestures by politicians, has led to the growth of what is a huge secret penal system, rivalling in its severity the mainstream judicial system but without the latter's safeguards.⁴⁹ Claimants are treated worse than offenders. The scale of penalties is higher

than in the Sheriff/ Magistrates Courts (£286.80 - £11,185.20 compared to £200 - £10,000). There is no legal representation. Since the Social Security Act 1998 abolished independent adjudication, Jobcentre staff have had no personal responsibility to apply the law honestly but are mere agents of the Secretary of State. In contrast to the courts, DWP officials have no duty to consider the claimant's circumstances or knock-on effects before deciding the level of penalty, or to call for social work reports. And the secret nature of the proceedings is clearly leading to widespread misconduct within DWP. The Tribunal appeal system is almost useless: it is used by only 3% of JSA and 1% of ESA sanctioned claimants, and because its decisions set no precedents, the same abuses are constantly repeated by DWP.⁵⁰

40. Punishment belongs in the judicial system. Sanctions should simply be abolished. Entitlement conditions would have to remain, but they should be based on respect for the claimant and should be accompanied by an effective safety net for those who do not meet them. 'Active labour market policies' which have something to offer the claimant would carry on and indeed be enhanced by the removal of threat and compulsion. The Committee asked 'Are there examples of good practice from other countries?' In my view it should be asking how it was that the UK survived and prospered for over seven decades from 1913 with minimal use of anything that could be called a sanction.

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Figure 1

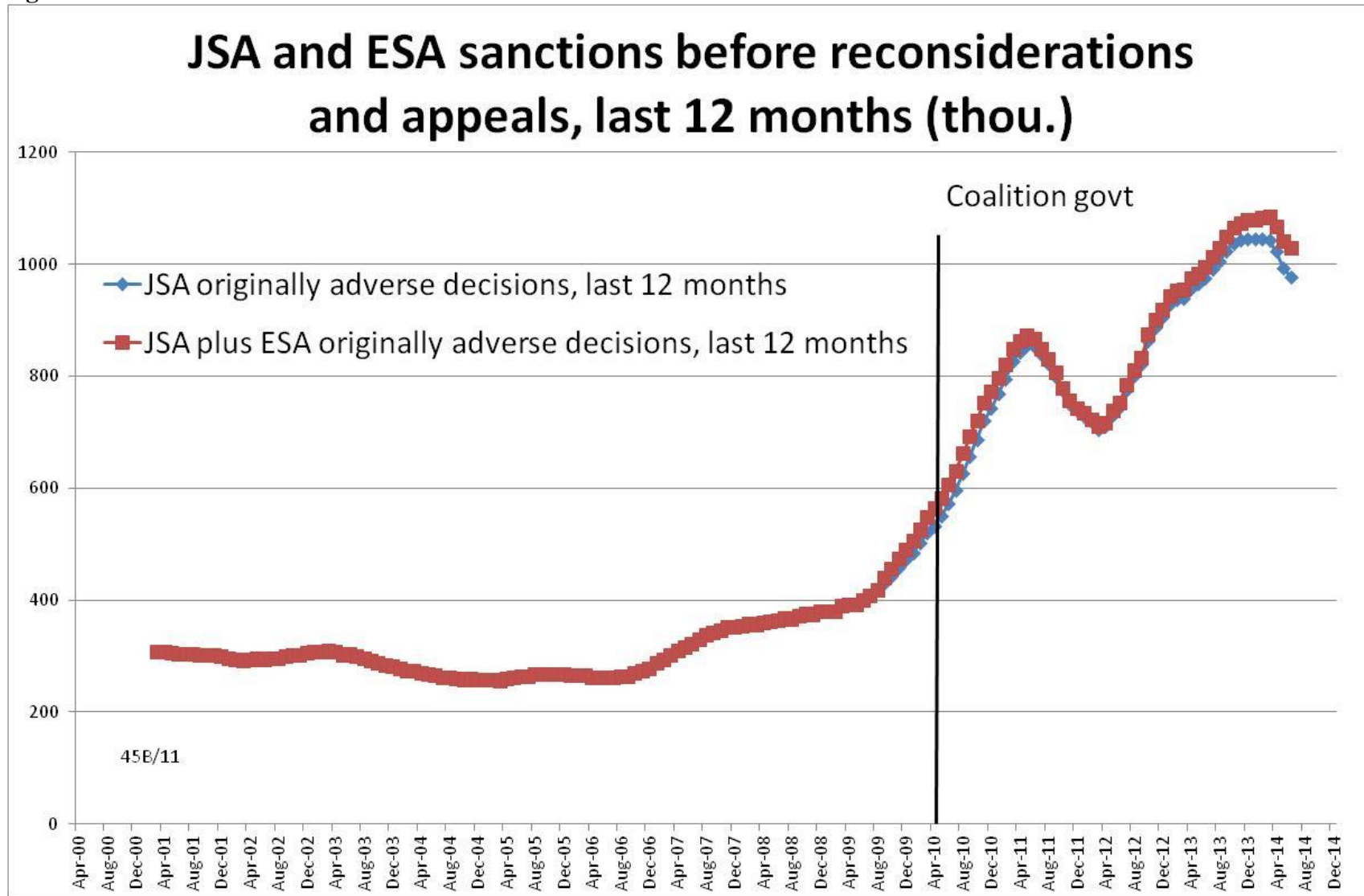


Figure 2

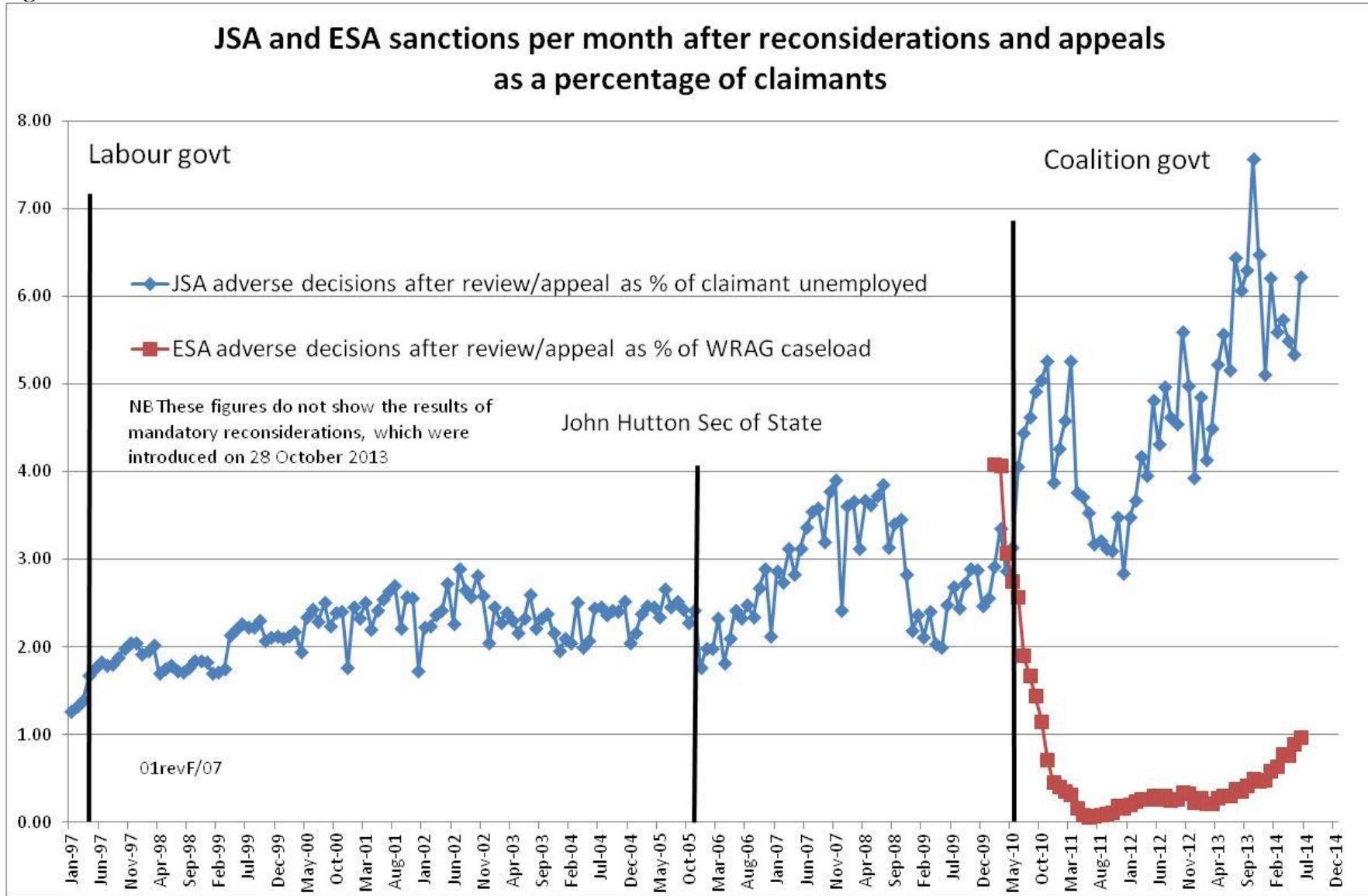


Figure 3

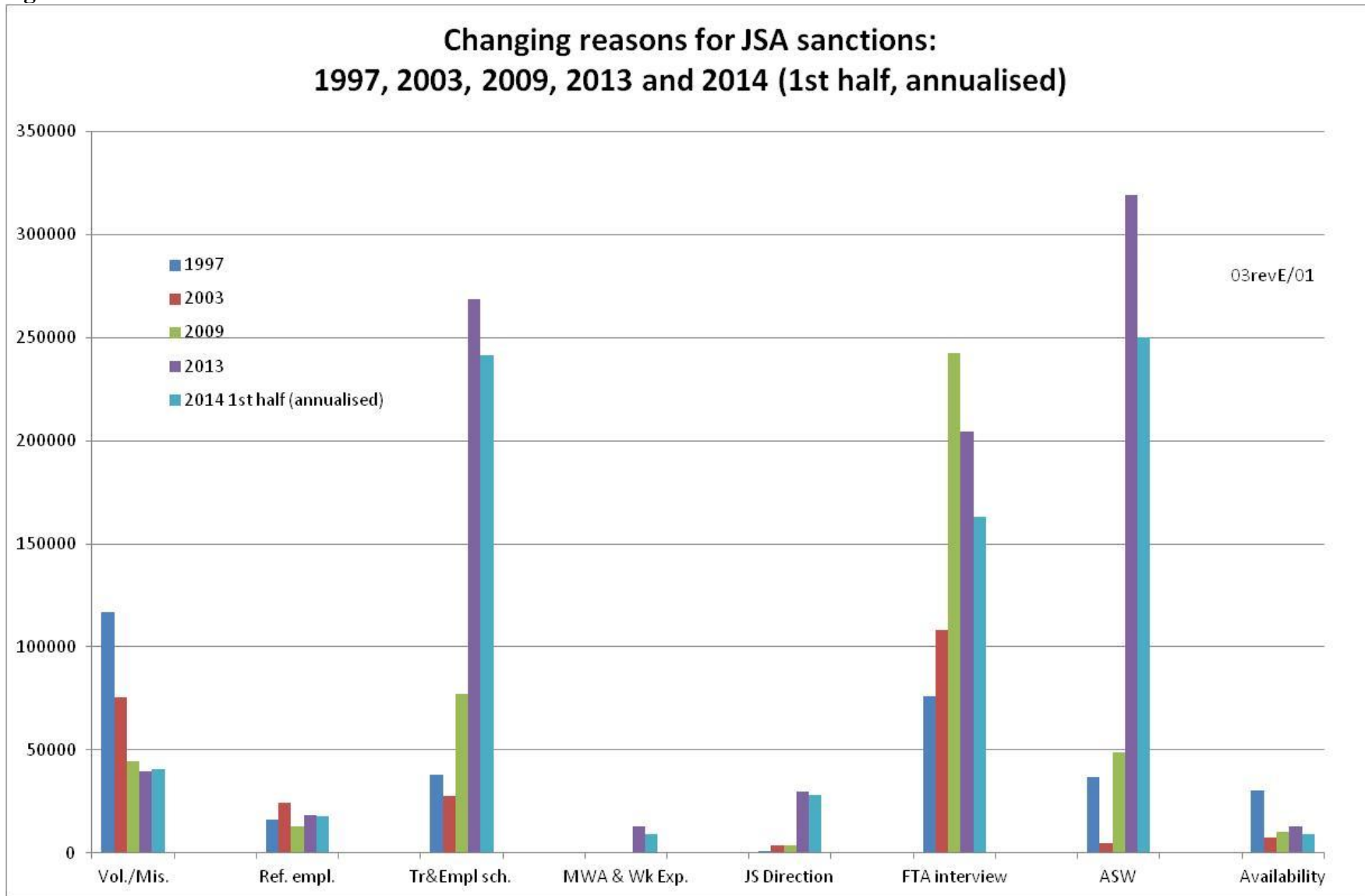


Figure 4

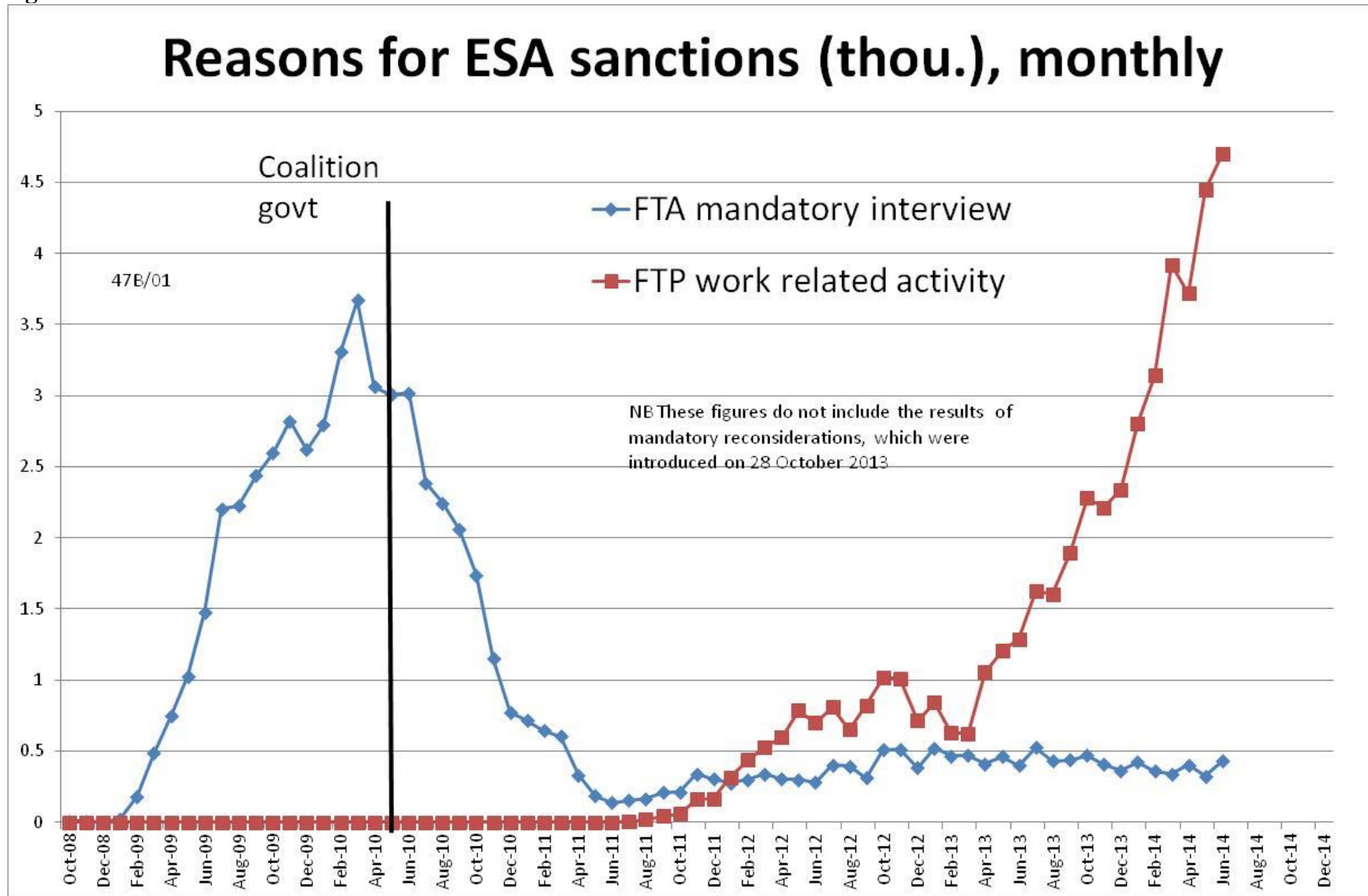
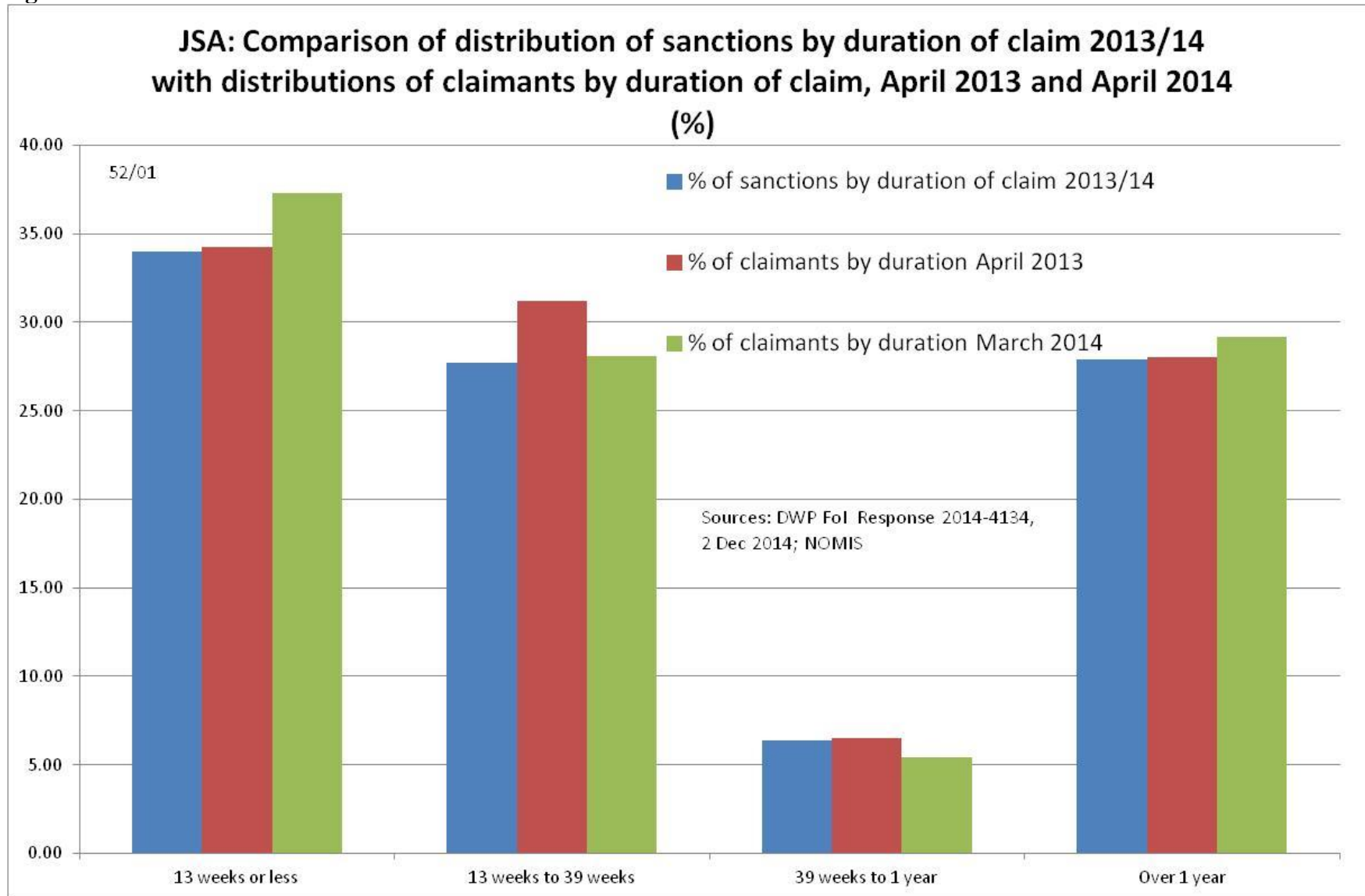


Figure 5



Appendix:

PAPERS ON BENEFIT SANCTIONS BY THE PRESENT AUTHOR since the evidence submissions to the Committee's Inquiry into the Role of Jobcentre Plus in the reformed welfare system

*The following are available on the Child Poverty Action Group webpage
<http://www.cpag.org.uk/david-webster>*

Evidence submitted to the Independent Review of JSA sanctions for claimants failing to take part in back to work schemes (Oakley review) (revised 13 January 2014)

Evidence submitted to the All-Party Parliamentary Inquiry into Hunger and Food Poverty: The Role of Benefit Sanctions in Creating the Need for Voluntary Food Aid (revised 2 July 2014)

Evidence submitted to the Fawcett Society inquiry *Who Benefits? An independent inquiry into women and Jobseekers Allowance* (updated 8 July 2014)

JSA Sanctions: A guide to the Oakley report and the government's response (11 September 2014)

Briefings on the DWP's quarterly JSA/ESA sanctions statistics releases (*these continue the series begun with the Further supplementary evidence to the House of Commons Work & 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?, 20 November 2014*):

- 19 February 2014
- 14 May 2014
- 13 August 2014
- 12 November 2014

The following is available at <http://www.welfareconditionality.ac.uk/category/blog/>

Not so smart! Comments on the Policy Exchange report 'Smarter Sanctions: Sorting out the system' by Guy Miscampbell (24 March 2014)

*The following is available on the Scottish Parliament website at
http://www.scottish.parliament.uk/S4_Welfare_Reform_Committee/20140401_papers.pdf*

Scottish Parliament Welfare Reform Committee, Inquiry into Benefit Sanctions: Written submission from Dr David Webster: JSA and ESA Sanctions, WR/S4/14//6/10, 1 April 2014

The following can be requested from <http://eprints.gla.ac.uk/88620/>

'Jobseeker's Allowance sanctions and disallowances' *Working Brief 233* (2013), pp. 6-7

¹ This author made three evidence submissions on JSA sanctions to the Work & Pensions Committee Inquiry into *The Role of Jobcentre Plus in the reformed welfare system: Second Report of Session 2013–14*, HC 479, 28 January 2014. They were ‘JSA Sanctions and Disallowances’, revised & corrected 8 August 2013; ‘Geographical Variations in JSA Sanctions and Disallowances’, 8 August 2013; and ‘The DWP’s Updated Statistics on JSA Sanctions: What do they show?’, 20 November 2014.

² If a claimant loses their home as a result of a sanction, for instance – as quite often happens – they will not get it back simply because they have received a refund. Sanctions before reconsideration or appeal cannot be found exactly from the data published by DWP; the figures quoted here are estimates.

³ ‘Not actively seeking work’ is a misnomer. It usually means that the claimant is actively seeking work but has not done exactly what they are told by Jobcentre Plus. The great majority of such sanctions appear to be unlawful, since the law does not require jobseekers to do what they are told, nor even to do what is in their Jobseeker’s Agreement or ‘claimant commitment’, but to take such steps as are likely to give them the best prospect of finding work and are reasonable in their circumstances.

⁴ ‘Failure to participate’ is also a misnomer since it usually means that the claimant has missed a single interview when they have in fact been participating fully (on this point see Oakley (2014), pp.43-44). The legal points made here were borne out in the nine Tribunal hearings on JSA sanctions which the present author attended in Glasgow during the summer of 2014.

⁵ Mind has subsequently issued a further important report (Mind 2014) on the unsatisfactory and damaging nature of employment services for people with mental health issues.

⁶ The DWP’s incidental disclosure of the delays in the pre-existing reconsideration system is explained in the author’s November 2014 sanctions statistics briefing.

⁷ Details on the propensities of claimants to request reconsideration or to appeal to Tribunals, and on their success rates, are in the author’s sanctions statistics briefing for November 2014.

⁸ Watts et al. (2014), p.6; an earlier analysis is in Webster (2013), para.6.

⁹ Webster (2014), para.9

¹⁰ Webster (2013), para.16-17

¹¹ DWP Freedom of Information response 2014-79, 18 March 2014

¹² Homeless Watch (2013) and Broadway & St Mungo’s (2014). The Jobseeker’s Allowance (Homeless Claimants) Amendment Regulations 2014 No. 1623, 21 July, and DWP Memo DMG 16/14 at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/327633/m-16-14.pdf, introduced the idea that people who have been homeless for months, as opposed to those who have just lost their home, do not have their job search capabilities affected by their homelessness. As with so many features of the sanctions system, there is no empirical evidence to support this view.

¹³ It is probably unnecessary to detail these damaging effects here as the Committee will receive much evidence on them. Sanctions undermine health (up to and including death) through hunger, malnutrition, cold and stress; family and friends suffer hardship and damaged relationships; they cause homelessness and child abuse, drive people to Food Banks, increase debt and crime (‘survival theft’ and violence), push people into worse jobs to which they are unsuited (with lasting ill-effects), undermine the support work of Jobcentre Plus, and make claimants reluctant to complain about malpractice by officials, contractors or employers. They have also undermined the usefulness and acceptability of national unemployment insurance for everyone.

References are in Webster (2013), para. 21-23 and there is a lot of evidence in the submissions to Oakley at <http://www.cpag.org.uk/content/oakley-sanctions-review-responses-other-organisations>

¹⁴ *Guardian*, 23 October 2014, at <http://www.theguardian.com/society/2014/oct/23/benefit-sanctions-investigated-mps>

¹⁵ *Guardian*, 6 November 2013, at <http://www.theguardian.com/society/2013/nov/06/benefits-sanctions-jobseekers-allowance>

¹⁶ DWP FoI response 2012-4383, 21 December 2012

¹⁷ I submitted Freedom of Information requests to the DWP to obtain an update on the proportion of claimants who are sanctioned over 5 years, and information on a number of other points relevant to this submission. They have not responded within the statutory time limit and have asked me to accept their apologies. I will pass on the information to the Committee if and when it is received.

¹⁸ DWP does not publish data in such a way as to enable extraction of the number of people subjected to the escalated penalties of 13, 26 or 156 weeks brought in by the Coalition in October 2012.

¹⁹ Public Accounts Committee, Fifth Report of Session 2013–14: *Department for Work*

and Pensions: Responding to change in jobcentres, May 2013, Q131, Ev 18 and Q146, Ev20.

²⁰ E.g. DWP Fol response 2014-4134, 2 December 2014; also multiple statements in the media.

²¹ *Guardian*, 6 November 2013, at <http://www.theguardian.com/society/2013/nov/06/benefits-sanctions-jobseekers-allowance>

²² The huge escalation in the number of ‘intermediate’ sanctions, in which the claimant’s claim is closed, is distorting the claimant unemployment figures, reducing both the published total of claimant unemployed and the apparent duration of unemployment. Nevertheless, the conclusion drawn here is valid.

²³ *Guardian*, 6 November 2013, at <http://www.theguardian.com/society/2013/nov/06/benefits-sanctions-jobseekers-allowance>

²⁴ Scottish Government (2013)

²⁵ House of Commons Eighth Delegated Legislation Committee, 11 September 2012, col.11; House of Lords, 8 October 2012, col.GC372. The ministers concerned promptly admitted their mistake when it was pointed out to them: Baroness Stowell of Beeston, letter to Lord McKenzie of Luton and email to Dr David Webster, 14 November 2012; Mark Hoban MP, letter to Dr David Webster, 4 December 2012.

²⁶ E.g. DWP (2014b), p.5.

²⁷ DWP (2013), Table 6.2, p.157

²⁸ Explanatory Memorandum to the Jobseeker’s Allowance (Sanctions) (Amendment) Regulations 2012, No. 2568, para.10.3.

²⁹ <https://www.gov.uk/government/publications/jobseekers-allowance-sanctions-independent-review>

³⁰ House of Lords written answer HL 2436, 4 November 2014.

³¹ Oakley’s remit was to consider process issues. But he was also excluded from considering any but ‘back to work schemes’ sanctions. Thus he did not consider one particularly glaring process issue. This is that since the October 2012 regulations, claimants accused of not actively seeking work are subject to both a disqualification and a sanction, the latter being adjusted so that the length of time the claimant is off the register added to the length of the sanction sums to four weeks (for a first ‘failure’). This is the source of truly enormous confusion. It generates two sets of case papers for what are legally two separate decisions, and the claimant must submit two separate appeals as well as reapplying for JSA. It also leads to the claimant’s Housing Benefit claim being closed, generating rent arrears and possible eviction. Although the government is proposing to change its notifications to local authorities to prevent loss of HB in other cases, it is not doing so in this case. Since this is the largest single reason for sanction, this is a very serious matter indeed. As in other aspects of the sanctions system, it appears that DWP ministers and officials are unconcerned about administrative efficiency. More detail on this and other points is in the author’s Guide to the Oakley Report.

³² DWP Fol response 2014-4134, 2 December 2014

³³ in the first paragraph of his Foreword, p.4.

³⁴ DSS (1989), para.1

³⁵ DSS (1989), para.5

³⁶ Price (2000), p.269

³⁷ Webster (2013), Figure 4 and Footnote 6.

³⁸ <http://www.hartziv.org/hartz-iv-sanktionen.html>

³⁹ See this author’s critique of the Policy Exchange’s report *Smarter Sanctions* (2014), which is a prime example of *a priori* ‘punishment’ thinking.

⁴⁰ It should be noted that terminated claimants would be very unlikely to use the appeal system, since they could get their money reinstated very quickly by reclaiming. They would not bother to undertake the lengthy appeal process for the small amount of money at stake. It follows that there will have been particularly large numbers of wrongful terminations that were going unchallenged.

⁴¹ It is worth noting that this White Paper’s comments do undermine the rationale for the 2012 Regulations’ doubling up of disqualification and sanction in the case of ‘intermediate’ ‘failures’. If the process of termination and reclaim is so costly, why do it in addition to a sanction when it makes no difference to the actual length of the penalty?

⁴² In the Swiss research, advisers were classified as ‘co-operative’ if they agreed with the statement ‘dass die Kooperation des Stellensuchenden sehr wichtig ist und dessen Wünsche berücksichtigt werden sollten’. Most of those classified as unco-operative agreed with the statement ‘dass Stellenzuweisungen bzw. Arbeitsmarktliche Massnahmen manchmal auch gegen den Willen des Stellensuchenden durchgeführt oder verweigert werden’. The words ‘tough’ or ‘toughness’ or their German equivalents did not appear anywhere in this research.

⁴³ *Financial Times*, 25 August 2014

⁴⁴ <http://www.dwp.gov.uk/publications/specialist-guides/decision-makers-guide/>

⁴⁵ Para. 35099

⁴⁶ Para. 35198

⁴⁷ The hardship payment regime under Universal Credit is even harsher. The payments become repayable, the 80% rate is abolished, reapplication has to be made in every 4-week period, all including 'vulnerable' must demonstrate 7 days' compliance with job search conditions before applying, and applicants have to demonstrate that they have made every effort to eliminate expenditure on anything except accommodation, heating, food and hygiene (The Universal Credit Regulations 2013, No.376).

⁴⁸ Gregg (2008), pp.14, 30, 38, 69, 70, 71, 76.

⁴⁹ See also Adler (2013).

⁵⁰ The Administrative Justice and Tribunals Council (2011, p.31) recommended that there should be formal feedback from the Tribunals to the DWP about systemic failures revealed by the cases coming before them. But this has not been acted upon.