



To Profit or Not to Profit?

Legal Help Providers in the Standard Contract

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Open Public Services

- Non Profits popular politically.
- There is some economic theory that suggests there are differences between non-profits and for-profits.
- Little evidence of how they behave when they are competing against each other.
- This paper takes an area, Legal Help (for legal aid questions) to look for evidence.

Introduction

A brief overview of the economics literature on non-profit organisations (NFPs).

Looking at an economic model of non-profits:

- Non-Distribution Constraint
- Mission
- Donations
- Motivation

Non-Distribution Constraint



- NFPs are defined by a non-distribution constraint (Hansmann 1980).
- This important when combined with services that are difficult to contract over.
- NFPs can credibly commit to providing higher (non-contractible) “quality” than for-profits (Glaeser and Schleifer, 2001)

Mission

Ray Lewis: Eastside
Young Leaders Academy:
Military style discipline



Camila Batmanghelidjh:
Founder of Kids Co focusing on
psychotherapeutic approach



There is no guarantee the mission will be good. Non-profits can be wasteful, inefficient, narrowly ideological

Donations and Motivation

- NFPs can attract donations
- NFPs can credibly commit not to expropriate donations and so attract higher donations of both money and time (Glaeser and Schleifer, 2001 and Francois, 2000, 2003)
- NFPs can attract intrinsically motivated workers through process of “mission-matching” (Besley and Ghatak, 2005)

Summary: What do we expect from NP's?

- Higher quality (where there is contract failure)
- Geared to a mission (which may or may not be desirable).
- Able to attract donations of money or time (including intrinsic motivation).
- Ambiguous as to whether will 'cost' more.
- May respond to contracts differently.

Legal Aid

- Data
- Context
- Contracts

Data

- FOI from Legal Service Commission
- All legal help cases for 2009 to 2010
- Just under 650,000 cases in total.
- 60% delivered by 'for-profits'; 40% 'non-profits'.
- Some limitations in the data.

Legal Aid: Context

- When the system set up funding only went to private solicitors practices.
- 1989 administration removed from the law society into (what is now called) the Legal Services Commission.
- There have been over 30 consultations in legal aid over the last 5 years.
- Key research interest is whether there are differences in providers that are non-profits
 - For Profits (FP): Private solicitors practices, almost exclusively 'lawyer'
 - Non Profits (NFP): Mix of Citizen's Advice Bureau (CABx), small advice providers, Law Centres, Specialist Organisations (e.g. RMJ)
- Important: May be other differences between the organisations aside from their organisational form.

The Standard Contract

Two key features, important to be clear what purpose is:

1. The Fixed Fee:

- Providers paid on closing a case (this varies for each area of social welfare law)
- They can keep any 'profits' on cases up to a limit of 20% (based on time per hour).
- If the case goes over 3x the amount that would have been chargeable under the hourly rate – providers *can* claim the exceptional fee

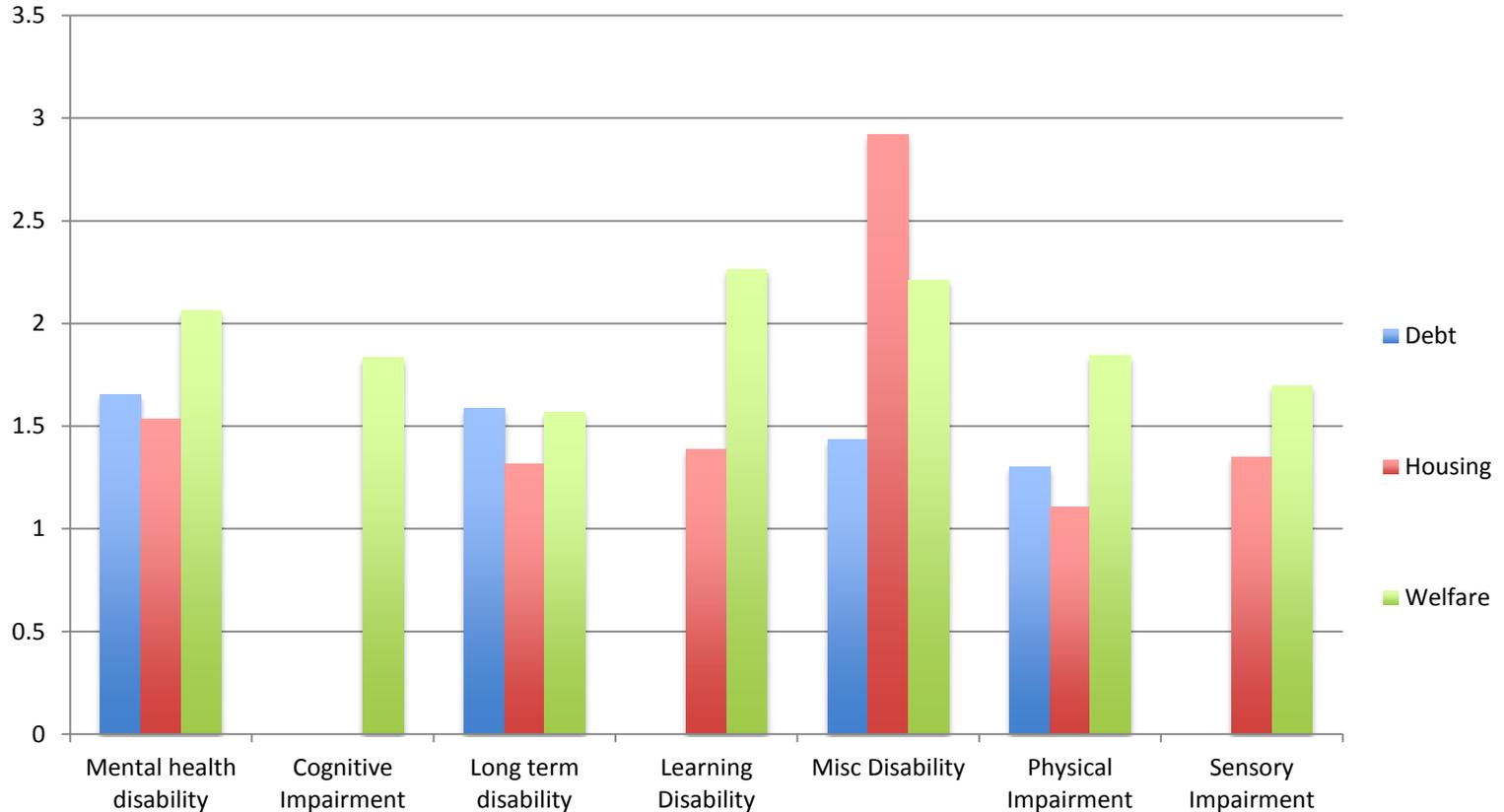
1. Key Performance Indicators (KPI's): Counterbalance to the Fixed Fee.

Identified gaming responses include cherry picking, early closing, cluster splitting and outcome code manipulation.

Analysis

1. Who goes where?
2. How do different providers behave?
3. Outcomes of cases

1. Who goes where?

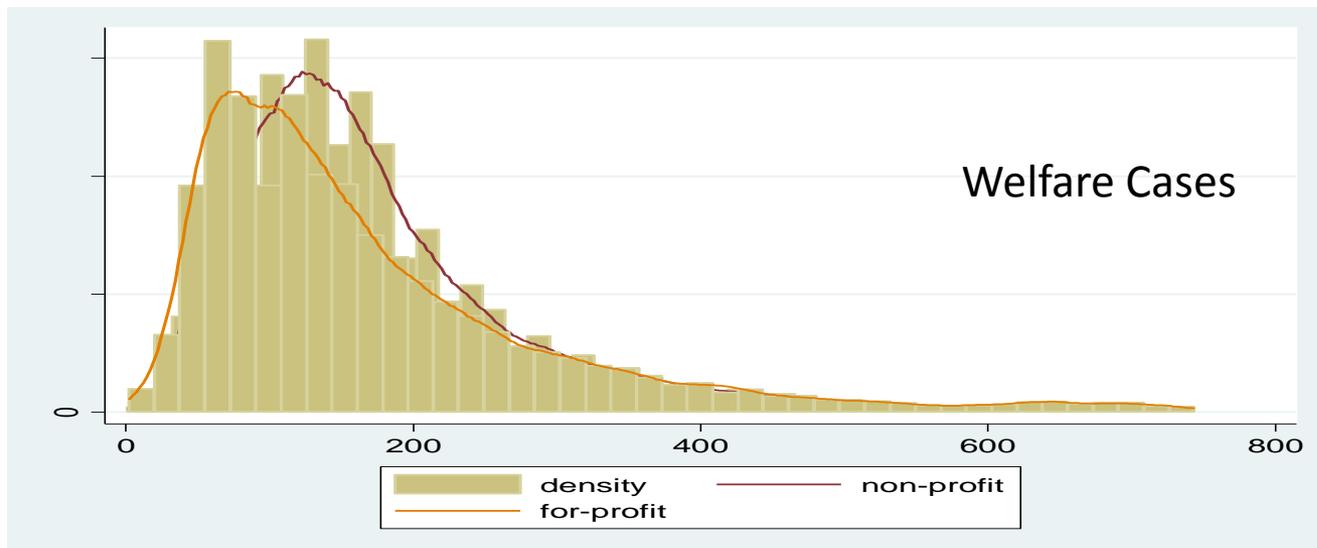
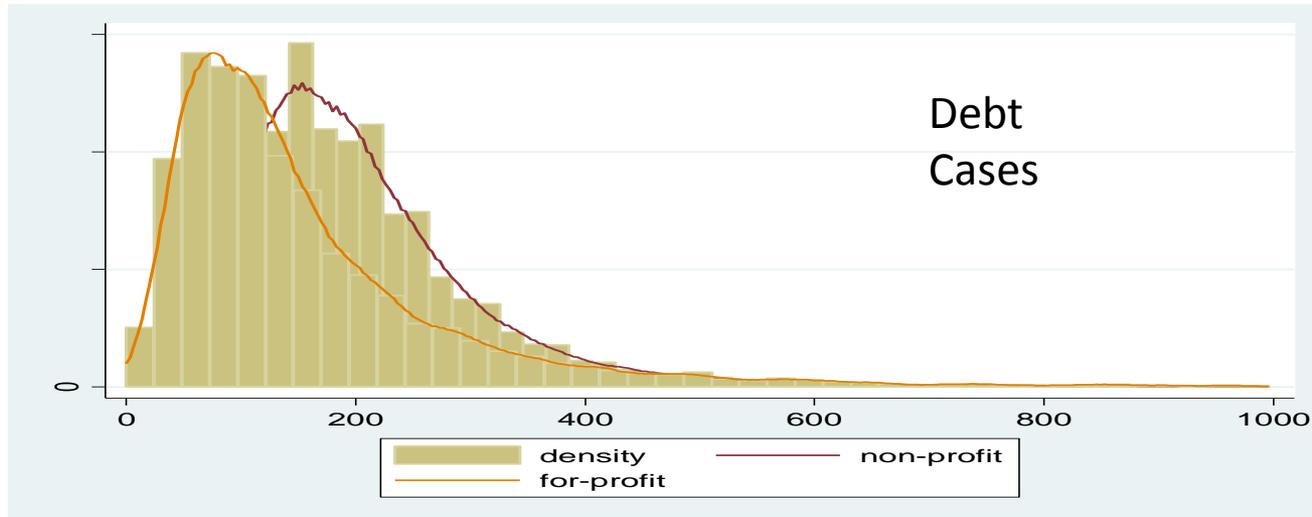


Graph 1: Odds Ratios of logit regression, dependent variable NFP Provider. Only shows statistically significant results ($P < 0.01$)

Why?

- The selection could work in a number of ways:
 - Firms deliberately select clients
 - Firms work in different ways, and so attract different clients (e.g. NP's do more outreach, often based in community locations, employ more staff with disabilities)
 - Clients select firms
- Is this evidence of gaming? No.
- Can't rule out reporting differences.

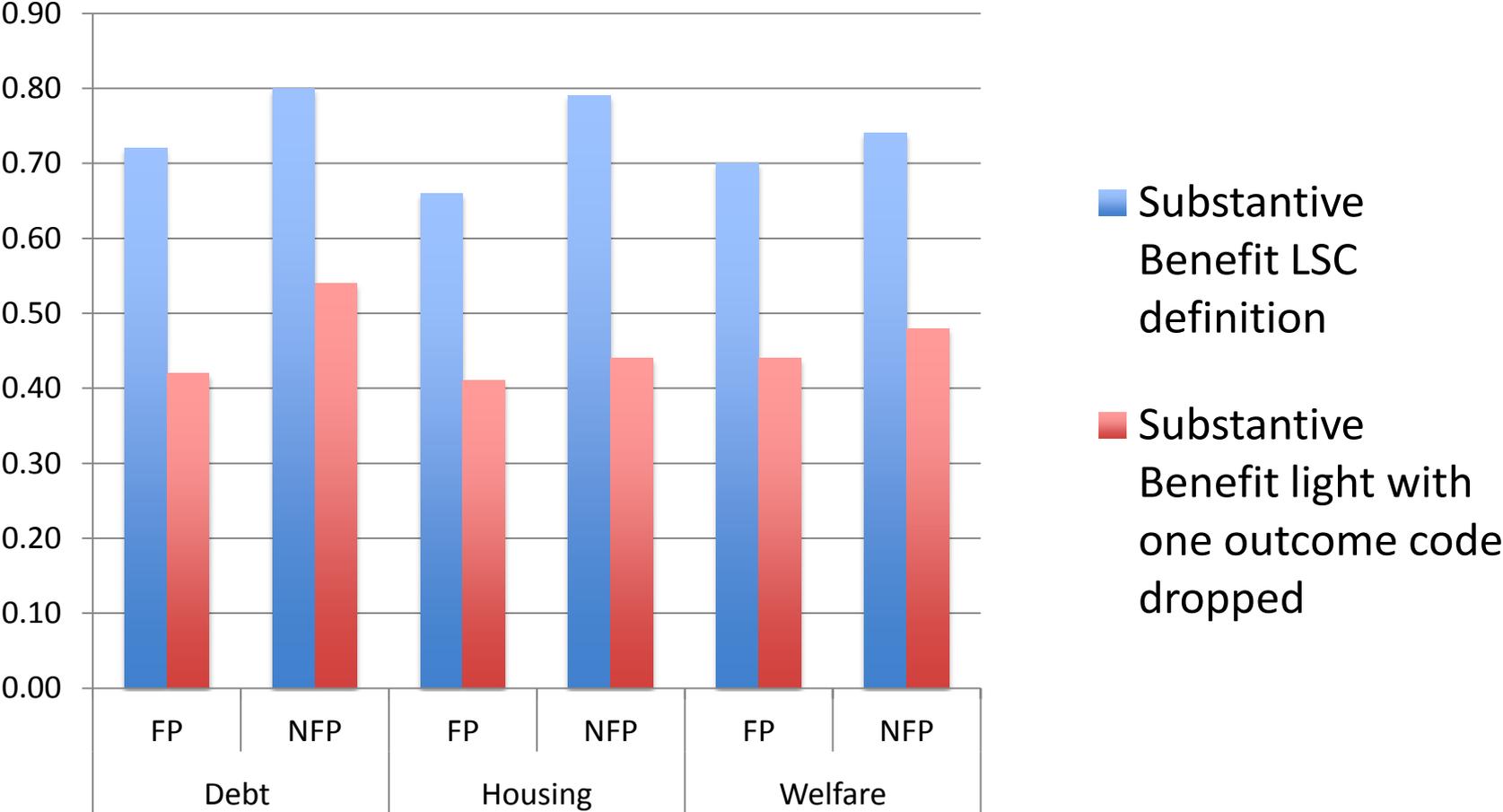
2. Do Firms respond to cases differently?



Why?

- Different types of cases
- Different approach to Legal Help work (influenced by for-profits more likely to take people on under CLR funding).
- More efficient
- Gaming.

3. Outcomes – some differences – caution applied in interpreting.



Gaming of the outcomes measure?

- There are some outcome codes that are very ambiguous. For example, one is 'client is advised and is able to manage their affairs better'.
- If we drop these cases, the difference in outcomes widens for debt cases (i.e. NP's now even more likely to get positive outcome) but narrows for housing cases.
- Also remember, the word 'outcome' is a bit misleading.

Conclusions

- There are differences between non-profits and for-profits in terms of who they take on, and how they behave in relation to cases.
- The findings are consistent with the economic arguments around NFPs. Yet don't conclusively prove this (as they are consistent with a number of other arguments too).
- As we might expect, NPs are less likely to make a profit on delivering legal aid contracts. This could have a number of important distributional consequences.

Where Next?

- Suggestions for future research
 - Compare before and after unified/standard contract introduced – i.e. what difference has the contracts made, are they making NFP's more like FP's (should it be the other way round?)
 - Provider level data.