



**Legislation, ideas and pre-school education policy in the twentieth century: From targeted nursery education to universal early childhood education and care**

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Abstract:	This paper explores legislative provision and pre-school education policy over the course of the twentieth century. The paper argues that there has been a significant ideational shift over this period, from a policy focus on nursery education for poor children, to universal early childhood education. Not only have ideas changed, but provision and funding have changed. Although there have been major revisions to legislative provision, there are elements of continuity as regards the institutions delivering early childhood education, particularly maintained nursery schools and nursery classes, but with layering of private-for-profit and not-for-profit institutions to 'fill the gap' in provision. At the same time, the central state has taken increasing control of publicly-funded early childhood education through legislative provision.

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# Legislation, ideas and pre-school education policy in the twentieth century: From targeted nursery education to universal early childhood education and care

## Introduction

This paper is concerned with legislative provision for early childhood education in England over the past century. Legislation has been a key policy instrument in Europe and the United States in the development of publicly-funded early childhood education.<sup>1</sup> In France, a pioneer in nursery education, legislation was first introduced in 1881 defining the public *école maternelle* as a non-compulsory school, free, secular and integrated with primary school (IGEN/IGAENR, 2011). The *école maternelle* was seen as a place to shelter and protect the child and to provide education which the working mother could not provide due to her absence during the day (Martin 2010). In the United States, the federal government became involved in early childhood education much later: the Federal Emergency Relief Act of 1933, which provided federal funding for the unemployed, was used to employ teachers and establish emergency nursery schools across the country (Hopkins, 1933; Nawrotzki, 2015). In England, legislation was enacted later than in France but earlier than in the United States, when the 1918 Education Act gave local authorities the power to supply or aid the provision of nursery schools (or nursery classes) for poor children.

There is, however, a paucity of research focusing on legislative provision for early childhood education in England in the twentieth century, albeit that studies have focused on policy in different periods and *inter alia* associated legislation (e.g., Blackstone, 1974; Lewis, 2013; Palmer, 2016; Penn, 2004; Whitbread, 1972). This is perhaps surprising given the major developments that took place during this period. In the early twentieth century, state-funded nursery education was provided, at the discretion of local education authorities (LEAs), in nursery schools (or nursery classes) for children whose home conditions were deemed unsatisfactory. By the end of the twentieth century, part-time 'nursery education' was universally available for four-year-olds (and by 2004 for three-year-olds), and delivered by a 'mixed economy' of public and private providers (West and Noden, 2019).

This paper seeks to understand the changes that took place over the twentieth century by focusing on legislative provision regarding nursery education and early childhood education (and care). The main emphasis is on primary legislation passed in the twentieth century, in particular, the 1918 Education Act, the 1944 Education Act, the 1996 Nursery Education and Grant Maintained Schools Act, the 1998 School Standards and Framework Act, and subsequent legislation in the early twenty-first century. In addition to analysing the legislation, the paper also examines the ways in which policy has developed and the different ideas that have underpinned the legislative changes. In so doing it utilises, heuristically, concepts of ideas that have been used in the political science literature. Ideas can be viewed as 'normative or causal beliefs held by individuals or adopted by institutions that influence their attitudes and behaviour' (Emmerij et al. 2005, p. 214). For Campbell (1998), ideas provide specific solutions to policy problems; they can be underlying assumptions located in the background of policy debates or in the foreground of these debates where they are explicitly

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3 articulated. As Mehta (2010) notes, policy solutions are the narrowest way of  
4 conceptualising the role that ideas play in politics. Problem definitions define the range  
5 of possible choices, although within a given definition there can be different policy  
6 choices; ideas are also important at a broader level, namely that of public philosophy or  
7 zeitgeist. A public philosophy is a view about the appropriate role for government as  
8 regards the state and the market and is part of the political sphere; the zeitgeist on the  
9 other hand is a wide ranging set of societal assumptions that are dominant in public  
10 discourse at a particular point in time.  
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14 The paper argues that there has been a major ideational shift over the past century,  
15 from nursery schools (and classes) as a policy solution to meet the needs of poor  
16 children, to early childhood education and care, delivered by a 'mixed economy' of  
17 providers, as a policy solution to meet the needs of all children. Ideas – of different types  
18 – have changed, as have provision and funding. Although there have been revisions to  
19 legislative provision, there are elements of continuity as regards the institutions  
20 delivering pre-school education, notably maintained nursery schools and nursery  
21 classes. It is further argued that although legislation has played a crucial role, non-  
22 statutory provision has also been important, in particular, reports commissioned by the  
23 central education department,<sup>2</sup> and quasi-regulatory guidance provided in circulars.  
24 Moreover, the extent of control exerted by central state has shifted (cf. McCulloch,  
25 2017): the prominent role played by local government has been replaced by increasing  
26 control by central government, particularly from the late 1990s (cf. West, 2015).  
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31 The paper draws on a range of documentary evidence and secondary academic  
32 literature. The primary documents were selected to cover nursery education and early  
33 childhood education legislation and policy during the twentieth century and early part  
34 of the twenty-first century. The documents comprised primary legislation statutory  
35 instruments (secondary legislation), circulars, white papers, parliamentary debates,  
36 government reports, statistical documents produced by the Department for Education  
37 (DfE) (and its predecessors), archival documents and speeches.  
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41 The following sections address different time periods: the 19<sup>th</sup> century legacy and early  
42 twentieth century; the 1918 Education Act and the inter-war period; World War II and  
43 the 1944 Education Act; the 1950s to 1970s; the 1980 Education Act to the 1996  
44 Nursery Education and Grant Maintained Schools Act; and the 1998 School Standards  
45 and Framework Act and beyond. The final section concludes with a discussion of  
46 legislative provision over time, together with changes to ideas, policy, provision and  
47 funding.  
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### 50 **The 19<sup>th</sup> century legacy and early twentieth Century**

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52 The 1870 Elementary Education Act dealt specifically with the provision of education in  
53 England and Wales for children between the ages of 5 and 13 with infant schools being  
54 incorporated as part of the state provision when Board of Education schools were  
55 established (Turner, 1970). The main significance of the Act was that provision was  
56 made for every child including for the first time the children from social classes that had  
57 been exploited as a result of industrialisation (Middleton, 1970).  
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3 Whilst education was neither free nor compulsory, the 1870 Act did introduce universal  
4 education for children from the age of five. Significantly however, the Code of 1872 fixed  
5 three as the minimum age at which children in attendance at school might count for  
6 grant aid, though children under the age of three might still be admitted to school. In  
7 1870/71, nearly a quarter (24%) of three- to five-year-olds attended 'babies' classes in  
8 elementary schools. By 1900/01, this had increased to 43% (Board of Education, 1933),  
9 even though attendance was voluntary (Turner, 1970). Major concerns about the  
10 education of very young children were expressed. Two reports were requested by the  
11 Board of Education. In 1905, the Women Inspectors of the Board produced a report on  
12 the age of admission of very young children to public elementary schools and the  
13 curriculum that was being followed. The inspectors expressed concerns about children  
14 under five being instructed formally. However, in spite of the drawbacks the inspectors  
15 noted: 'Though fault may be found with the school, yet in the slums, where mothers  
16 have to leave their children and go to work, to attend school is better for the babies than  
17 to stay away' (Board of Education, 1905, p. ii). Significantly, the report noted: 'It would  
18 seem that a new form of school is necessary for poor children. The better parents  
19 should be discouraged from sending the children before five, while the poorer who  
20 must do so, should send them to nursery schools rather than schools of instruction' (p.  
21 ii). Thus, the idea of a new type of school was proposed as a solution to the problem of  
22 inappropriate schooling for poor children.  
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29 The views of women inspectors were endorsed by the Consultative Committee to the  
30 Board of Education report of 1908 (the Acland Report) (Board of Education, 1908). This  
31 advocated nursery schools for some children: 'The proper place for a child between  
32 three and five is, of course, at home with its mother, provided that the home conditions  
33 are satisfactory'. However, the report noted that 'the home surroundings of large  
34 numbers of children who attend elementary schools are not satisfactory' (p. 57), with  
35 their home conditions being 'imperfect' (p.19) and 'whose mothers may be compelled to  
36 leave home during the day and go to work' (p. 17). For such children, the Committee  
37 considered that 'the best place...is a Nursery School' (p. 57). Ideas from outside the  
38 nation-state were deployed with references being made to provision in a number of  
39 other countries including France, where at the beginning of the twentieth century about  
40 25% of children between the ages of two and six attended *écoles maternelles*.<sup>3</sup> Both the  
41 1905 and 1908 Board of Education reports were underpinned by the belief – or  
42 normative idea – that the new nursery schools should be for poor children.  
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48 The Board of Education was committed to promoting the idea of nursery schools. More  
49 generally, improving the welfare and education of poor children was viewed as a social  
50 obligation (Sherington, 1976). At around the same time, Margaret McMillan started  
51 campaigning for nursery schools and in 1911, she and her sister Rachel, set up a nursery  
52 for poor children supported by a grant from the London County Council (Blackstone,  
53 1974)<sup>4</sup>  
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56 In summary, a clear problem had been identified, namely that the needs of poor  
57 children were not being met in elementary schools. The policy solution was seen as  
58 being a new form of school for poor children, namely the dedicated nursery school.  
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### Inter-war period: 1918 Education Act to 1938

The 1918 Education Act, passed by the Liberal government of Lloyd George, gave LEAs the power to supply or aid the provision of nursery schools (or nursery classes) for children over two and under five years of age 'whose attendance at such a school' was 'necessary or desirable for their healthy physical and mental development' (s19 (1)(a)). It did not make provision statutory. Whilst nursery schools had been seen as the policy solution for the education of poor children, the final version of the Act also included reference to 'nursery classes' (see also Palmer, 2016). Ideas about the policy solution for the education of poor children shifted, with nursery classes being included in the legislation in addition to nursery schools.

Nursery education policy was set out in the Prefatory Memorandum to the Regulations for Nursery Schools issued in March 1919. As stated by the President of the Board of Education, Herbert Fisher: 'The Board have made it clear in this Memorandum that they, attach the greatest value to these schools, and they have endeavoured to stimulate their provision and development by the institution of grants in aid of the expenditure incurred thereon' (HC Hansard, 1920). The 'national system' established by the 1918 Education Act thus rested on the need for expansion across the country but allowing for local initiatives (Sherington, 1976). In short, the development of nursery schools was dependent on the decision of local authorities – albeit that the Board sought to stimulate their provision by grant aid. The power to fund nursery education was also addressed in Scotland via the 1918 Education (Scotland) Act (Paterson, 2018). In the same year, an institutional division was made between educational and child day care via the 1918 Maternity and Child Welfare Act, which empowered local authorities to set up day nurseries (for under-fives in exceptional circumstances, namely the children of women without husbands or from very poor homes) and give grants to voluntary nurseries (Randall, 2000).

The development of nursery schools was slow, with the number increasing from 13 in 1919 to just 28 in 1929 (Whitbread, 1972). In part this was related to public opposition to expenditure on education and in part to the government seeking to cut public expenditure (Akenson, 1971), with two circulars in 1921 and 1922 severely restricting expenditure on nursery education (Whitbread, 1972). In 1929, following the election of a Labour government, the Ministry of Health and the Board of Education issued a joint Circular stating that the purpose of the nursery school was 'to provide for the healthy physical and mental development of children over two and under five years of age' (p. 44). However, it also noted that in planning new infant schools it would be desirable to consider including provision for children between three and five. Whilst the nursery school would remain the model, an advantage of admitting 'children under five to public elementary schools was that it brought them within the scope of the school medical service' (Board of Education, 1933, p. 44). This circular thus made explicit the idea of the nursery class as a means of providing for the healthy physical and mental development of young children.

By 1932, there were only 55 nursery schools recognised by the Board of Education, 30 of which were provided by LEAs, and 25 by voluntary bodies. These catered for 4,520

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3 pupils and were located in crowded urban areas where housing conditions were  
4 deemed unsatisfactory (Board of Education, 1933).<sup>5</sup> In Scotland, severe restrictions on  
5 public expenditure also prevented the growth of nursery schools – in 1931 there were  
6 25 nursery schools run by LEAs, 15 of which were under voluntary management (HC  
7 Hansard, 1931).  
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10 The idea that the best place for a child below the age of five was at home – where the  
11 home conditions were good – was stressed in the 1933 Hadow Report (Board of  
12 Education, 1933). The Report also stated that where the home surroundings were ‘not  
13 satisfactory’ young children might benefit from either ‘separate nursery schools, or  
14 nursery classes within public elementary schools’ (p. 187). Nursery schools were seen  
15 as best placed to meet the needs of children in areas where ‘the housing and general  
16 economic conditions are seriously below the average’ (p. 114). On the other hand, there  
17 were areas in which nursery classes within infant schools or departments would satisfy  
18 the existing need (p. 115). According to Palmer (2016), in these areas ‘a cheaper form of  
19 provision, the nursery class, would suffice. The motive to encourage nursery classes  
20 alongside nursery schools was therefore financial’ (p.112). The focus on nursery schools  
21 for children who lived in poor areas was reiterated in 1937: ‘The Board are always  
22 prepared to sanction the provision of new nursery schools in areas where the housing  
23 and general economic conditions are below the average, and on new housing estates’  
24 (HC Hansard, 1937).  
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30 The ideas underpinning policy remained broadly similar until the end of the 1930s:  
31 nursery education was for children living in poor areas, with nursery schools being for  
32 the most deprived and nursery classes for the remainder. The assumption was that pre-  
33 school aged children should be cared for at home by their mothers so long as the home  
34 conditions were deemed to be good.  
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### 37 **1939-1945 World War II and the 1944 Education Act**

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39 With the outbreak of World War II ‘wartime’ nurseries were set up given the need to  
40 mobilise married women and thus take care of their children (see Riley, 1979). Around  
41 1,500 such nurseries were set up in England (HC Hansard, 1945). They were initiated by  
42 the Ministry of Health, but in Circular 1553, LEAs were asked to co-operate with  
43 maternity and child welfare authorities in their establishment (HC Hansard, 1941a).  
44 Provision comprised full-time war nurseries and part-time provision. Financial support  
45 was provided by central government: where new nursery classes were provided in  
46 elementary schools in order ‘to meet the needs of the children of women war workers’  
47 LEAs’ expenditure was ‘eligible for 100% grant from the Ministry of Health as  
48 expenditure on war-time nurseries’ (HC Hansard, 1941b).  
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53 During the War, the Board of Education published plans for the future. The White Paper,  
54 *Educational Reconstruction* (Board of Education, 1943) noted that ‘it is a defect in the  
55 present arrangements that the power conferred on Local Education Authorities by the  
56 Act of 1918 to supply or aid the supply of nursery schools has been so little exercised’  
57 (para 14). The Board proposed ‘to substitute for the present power of Local Education  
58 Authorities a duty to provide, or aid the supply of, such nursery schools as in the  
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3 opinion of the Board may be necessary'. It further noted that nursery schools were  
4 'needed in all districts, as even when children come from good homes they can derive  
5 much benefit, both educational and physical, from attendance at a nursery school.  
6 Moreover, such schools are of great value to mothers who go out to work' (para 25).  
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9 The ideas presented in this report were notable in terms of the underpinning thinking  
10 about nursery education: not only should it be a duty of local authorities to provide or  
11 aid the provision of nursery education, but nursery education could be valuable for  
12 children from 'good homes' and where mothers go out to work. Here the problem is  
13 defined more widely than previously, with nursery education being beneficial for  
14 children who come from 'good' homes, not just children living in poor areas.  
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17 However, the ideas in the White Paper were not to be followed through in the 1944  
18 Education Act, in which LEAs were given *a duty to 'have regard...to the need for securing*  
19 *that provision is made for pupils who have not attained the age of five years by the*  
20 *provision of nursery schools or...by the provision of nursery classes...'* (section 8(2)(b))  
21 (italics added). LEAs were thus not given a clear duty to provide or aid the provision of  
22 nursery schools/classes as proposed in the 1943 White Paper. The legislation in  
23 Northern Ireland (via the Education Act (Northern Ireland) 1947) was similar. This was  
24 in contrast to Scotland where the 1946 Education (Scotland) Act placed a duty on local  
25 authorities to provide adequate and efficient nursery schools and nursery classes, albeit  
26 that 'the provision of primary education in nursery schools and nursery classes shall be  
27 deemed to be adequate if such provision is made at centres *where sufficient children*  
28 *whose parents desire such education for them can be enrolled to form a school or class of a*  
29 *reasonable size'* (s 1(6)) (italics added). Services developed slowly but more extensively  
30 than in England (Cohen et al., 2004).  
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36 In the post-war period, wartime nurseries taken over by the LEA would attract a  
37 government grant, with local authority day nurseries providing day care for children  
38 whose mothers had to go out to work because of their 'individual circumstances', for  
39 children whose home conditions were deemed unsatisfactory, or whose mothers were  
40 unable to care for them (TNA, 1945). Nursery education and child day care were again  
41 compartmentalised as they had been prior to World War II (Randall, 2000).  
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44 Following the 1944 Education Act, the newly-created Ministry of Education published  
45 *The Nation's Schools* (Ministry of Education, 1945). This stated that authorities would  
46 need to determine where it was 'most urgent' to provide nursery education, with  
47 congested parts of large towns, and areas with large blocks of flats being prioritised  
48 'due to the lack of fresh air and space for young children' (para 12). The aim of the  
49 nursery school was explicit: to provide medical care for young children, to train children  
50 in 'good habits and right behaviour' and to provide an environment in which 'they can  
51 learn the things appropriate to their age' (para 15). Nursery education was, as before  
52 World War II seen as a policy solution for problems associated with deprived areas.  
53 However, due to financial constraints, the building of nursery schools was banned in  
54 1947 by Circular 155 (Hansard, 1954).  
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### 1950s – 1970s: Restrictions on expenditure, proposals for expansion, recession

A succession of circulars restricted local authority expenditure in the 1950s and 1960s. During this period the main policy focus was to preserve the limited nursery education provision available (Palmer, 2016). In 1960, Circular 8/60 asked LEAs to restrict the number of children under five in nursery classes to the number in 1956/57 (see Danziger Halperin, 2018; Lewis, 2013). (Very few under-fives attended maintained nursery schools – in 1964, the percentage was less than 2% (HC Hansard, 1965)).

However, ideas started to change. In 1963, the Central Advisory Council for Education (CACE) of the Ministry of Education was charged with considering primary education including nursery education. Four years later the Plowden Report was published (Department of Education and Science (DES), 1967). This recommended a large expansion of nursery education: the building of new nursery schools and extensions to existing schools should start in 'priority' areas and spread outwards with all four- to five-year-olds in these areas having the opportunity to attend part-time, and half being able to attend full-time (para 165). However, low priority 'should be given to full-time nursery education for children whose mothers cannot satisfy the authorities that they have exceptionally good reasons for working'. Moreover, although nursery education should be provided 'in the long run' by LEAs, until there were enough maintained nursery education places, LEAs should be given the power and encouraged to give financial and other assistance to non-for-profit associations which fill a need they cannot meet (para 324) (DES, 1967).

In short, the view of the Committee was that part-time attendance nursery education was desirable for all children living in priority areas. The problem definition and policy solution were further elaborated: there were insufficient nursery education places, therefore funding should be provided to not-for-profit providers. At this time, the assumption was that nursery education was good for children but also for parents (Kogan, 1987), particularly mothers who might wish to work part-time: although there was a general commitment to the idea of the male breadwinner model family at this time, *part-time work* was seen as compatible with caring for pre-school aged children (Lewis, 2013).

The Labour government accepted the Plowden Report recommendation that expansion of nursery schools, should start in the deprived areas. Anthony Crosland, Secretary of State stated that he was 'very anxious that when we can allow any relaxation on the nursery school front, that relaxation should be for the benefit of these educationally deprived areas' (HC Hansard, 1967). Two years later the Urban Programme was set up. Between 1969 and 1971 capital expenditure of £3.93 million was approved for grant aid at 75%. This covered provision of 15,565 places in nursery schools and classes in England; the criteria used were essentially those of social need. Some local authorities that were helping pre-school play groups received grants of £150,000 towards their expenditure (HC Hansard 1969; HC Hansard 1971). By 1971, around 10% of three- and four-year-olds were attending state nursery schools and classes; however, in some areas there was no provision, whilst in a small number, about a third of children in these age groups received nursery education (Blackstone, 1974).



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3 The following year, the White Paper, *Education, a Framework for Expansion* (DES, 1972)  
4 put forward proposals for near-universal nursery education – and lifted the barrier to  
5 expansion by withdrawing Circular 8/60. The main proposals were to make places, free  
6 of charge, available for 90% of four-year-olds and 50% of three-year-olds. The White  
7 Paper noted that local authorities would need to take account of other facilities for  
8 under-fives and prepare a scheme: ‘in which nursery classes and schools, voluntary  
9 playgroups, day nurseries and other forms of day-care all play their part...’ (para 23).  
10 LEAs could also assist these voluntary groups with cash grants. Once again the idea of  
11 private-not-for-profit providers filling the gap in state provision can be seen as being  
12 part of the policy solution. Subsequently, Circular 2/73 advised LEAs that part-time  
13 education for the majority of three- and four-year-olds ‘may often be educationally  
14 preferable’ to full time attendance. Moreover, additional places should be provided via  
15 classes attached to primary schools – as these are more ‘economical to provide and  
16 maintain than separate nursery schools’ (TNA 1973). The same guidance also noted  
17 that: ‘Until nursery education is more widely available... playgroups may be assisted by  
18 authorities through cash grants’ and in ‘consultation with social service departments,  
19 authorities should consider carefully the role of playgroups when preparing plans for  
20 the expansion of nursery provision in their area’. By 1974, playgroups were catering for  
21 13% of three- and four-year-olds (Blackstone, 1974).  
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28 Constraints on public expenditure and on local authority expenditure followed the  
29 1973-1976 recession (cf. Penn, 2004). A DES Memorandum noted that the consensus of  
30 educational opinion remained as at the time of the Plowden Report, namely that part-  
31 time attendance was preferable for most three- to four-year-olds, but that nursery  
32 education in separate schools and classes would not meet the policy targets set in 1972.  
33 Funding was crucially important. In short, while the government’s funding allocation to  
34 local authorities for schools (via the Rate Support Grant<sup>6</sup>) took full account of all  
35 programmed nursery education building it was ‘inevitable that when local authority  
36 expenditure is severely curtailed areas of non-statutory provision are the first to suffer  
37 (TNA, 1976). Because of the financial constraints the Memorandum stated that there  
38 was likely to be pressure for ‘a redefinition of government aims for the under fives’ and  
39 ‘Any future statement of policy must deal with the relationship of nursery education to  
40 public and voluntary day care’.  
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45 In summary, the problem of educating pre-school aged children had been defined –  
46 there were insufficient places – even though part-time attendance had been increasing  
47 (see Figure 2) – insufficient resources, and no obligation on LEAs to provide nursery  
48 education. A solution, in the form of the child day care to supplement nursery schools  
49 and nursery classes, was proposed  
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### 52 **1980 to 1997: 1980 Education Act and 1996 Nursery Education and Grant** 53 **Maintained Schools Act** 54

55 The 1980 Education Act, enacted by the Conservative government elected in 1979,  
56 stated unequivocally that an LEA has the power (but not a duty) to establish, maintain  
57 or assist nursery schools or schools with nursery classes. In that year, the number of  
58 nursery schools peaked at 599 (see Figure 2). Nevertheless, the proportion of children  
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3 in nursery schools and classes in England continued to rise and by 1982, 22 per cent of  
4 three- and four-year-olds received nursery education, the highest ever. The  
5 government's expenditure plans continued to allow for a gradual increase in the  
6 number of places available (House of Lords Hansard, 1983).  
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9 The 1985 White Paper, *Better Schools*, reiterated that LEAs had discretion as to whether  
10 or not to make nursery education provision (DES, 1985). Debates about the nature of  
11 the provision continued. The Secretary of State for Education and Science, Robert Dunn  
12 noted that although there had been a reduction in the number of nursery schools  
13 between 1980 and 1984, this had been offset by an increase in the number of primary  
14 schools with nursery classes and that the overall numbers of pupils attending nursery  
15 schools or classes either full- or part-time, had increased (see also Figure 1). One of the  
16 possible reasons given for the expansion of nursery classes was that they were 'less  
17 expensive to establish and maintain than separate nursery schools' (HC Hansard, 1985).  
18 Cost was clearly a significant issue.  
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22 Figure 1 about here  
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24 Research revealed significant variation in the levels of nursery education across the  
25 country with provision being strongly related to the socio-economic background of  
26 authorities, with higher levels of nursery education in more disadvantaged urban areas,  
27 and playgroups in more affluent areas (it was estimated that 40-50% of three- and four-  
28 year-olds attended playgroups in 1986) (Owen and Moss, 1989).  
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31 The quality of provision was also on the policy agenda. The Rumbold report, *Starting*  
32 *with Quality*, published in 1990 set out to consider what nursery education for three-  
33 and four-year-olds should offer. Although quality was the focus, the report noted: 'We  
34 believe...that there is a compelling need to address the issue of quantity; and *we would*  
35 *urge those who make provision to recognise the extent to which demand outstrips supply,*  
36 *and to secure a continuing expansion of high quality services to meet children's, and their*  
37 *parents', needs'* (Rumbold Report, 1990, para 2) (italics in original). Further the  
38 targeting of resources to provide for children considered 'most in need' meant that  
39 nursery education overall was insufficient to meet the needs of all parents. The report  
40 went on to say that many families who were outside the categories considered  
41 disadvantaged used alternative forms of provision, noting that the playgroup movement  
42 had seen a steady growth in the 1970s (para 46).  
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44 Following the 1992 general election, John Major, the Prime Minister made clear his  
45 commitment to government-funded nursery education provision (HC Hansard, 1993).  
46 In his 1994 speech to the Conservative Party Conference he stated that nine out of ten  
47 three- and four-year-olds had attended a playgroup or nursery school before the age of  
48 five and he committed to 'accelerate this trend' (Major, 1994). Major asked the  
49 Secretary of State, Gillian Shephard to develop proposals to provide places for all four-  
50 year-olds whose parents wished their children to take up a place. He said that the  
51 publicly-funded provision had to 'be carefully targeted in a way that expands and does  
52 not crowd out the private and voluntary provision' (Major, 1994). Soon after, the right-  
53 wing think-tank, the Centre for Policy Studies, published a report advocating a voucher  
54 scheme to fund the expansion. This argued that a voucher with a value fixed by the  
55 government would open up opportunities to independent and voluntary groups to  
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provide nursery education and also keep down costs (Lawlor, 1994). The government subsequently opted for a nursery education voucher scheme to fund the expansion.

The ideas of parental choice of provider, the inclusion of private providers and the voucher mechanism can be seen as being part of the prevailing public philosophy – that market-oriented mechanisms were the preferred means to deliver pre-school education as was happening in other service areas (Le Grand, 1991). As Gillian Shephard commented: ‘I fully expect that giving parents purchasing power through a voucher will stimulate the private and voluntary sectors to provide new places’ (HC Hansard, 1995). The voucher scheme entailed private-for-profit and not-for-profit (voluntary) providers delivering state-funded nursery education, alongside nursery schools and classes; this active addition of a new set of institutions to an existing set has been termed ‘layering’ (Streeck and Thelen, 2005).

From this point on, legislation came to the fore in the field of early childhood education and care. The 1996 Nursery Education and Grant Maintained Schools Act defined ‘nursery education’ as education provided for children (whether at schools or other premises) (a) before their first school term starting after they have attained the age of five years ...but (b) after such earlier time as may be prescribed ... The Act also enabled grants to be made (a) to LEAs in respect of nursery education provided at schools maintained by them, and (b) to authorities and other persons of such descriptions as may be prescribed in respect of nursery education provided by them. The voucher scheme for four-year-olds was implemented in selected LEAs in 1996, and across the UK from April 1997. The voucher covered a minimum of five two-and-a-half-hour sessions a week for 33 weeks of the year – in line with a part-time place in a nursery class in a maintained school. Parents of eligible children were able to exchange the voucher for a part-time place offered by a validated provider (state-maintained nursery school or primary school nursery or reception class;<sup>7</sup> private or voluntary provider; or independent school (PVI providers)) (Sparkes and West, 1998). The value of the voucher for PVI providers was set at a flat rate of £1,100 (in contrast to state maintained schools where there was geographical variation), just below the average cost of a nursery class place (West and Noden, 2019). The scheme did not guarantee a nursery place to every four-year-old; rather it provided a voucher to fund a place, should one be available (HC Hansard, 1997a).

### **1997 to 2017: the 1998 School Standards and Framework Act and subsequent legislative provisions**

The Labour government, elected into office in May 1997, was committed to ending the nursery education voucher scheme (HC Hansard 1997b) and did so from September 1998, replacing the voucher with an entitlement to a free part-time nursery education place for four-year-olds; this could be taken in maintained schools or PVI providers. Significantly, under the 1998 School Standards and Framework Act, the LEA had a duty to ‘secure provision (whether or not by them) of nursery education’ for children of the prescribed age. If the child attended a provider that normally charged fees, the fees were to be reduced so that the basic entitlement was free at the point of delivery (West et al., 2010; West and Noden, 2019). Thus, for the first time, LEAs had a *duty* to secure provision. Ideas had thus shifted. From this point onwards, pre-school education was to

be available for all four-year-olds, and LEAs had a statutory obligation to secure provision.

From 2000 onwards, the free entitlement to early childhood education was expanded progressively. The Labour administrations extended the free part-time entitlement in England to three-year-olds in 2004, and to 38 weeks a year. The Conservative-Liberal Democrat Coalition government (2010-15) increased the entitlement further – to 15 hours a week and to the 40% most disadvantaged two-year-olds (West and Noden, 2019). These changes were underpinned by the 2006 Childcare Act and subsequent amendments via the 2011 Education Act (see DfE, 2018a). Policies to expand early childhood education were also introduced in Scotland, Wales and Northern Ireland (see West, 2015).

Further changes followed in September 2017, when the Conservative government (2015-) introduced an ‘extended entitlement’ of 15 hours a week free ‘childcare’ (i.e. 30 hours of early childhood education and care in total) for three- and four-year-olds with parents in work (DfE, 2018b).<sup>8</sup> This was underpinned by the 2016 Childcare Act, which placed a duty on the Secretary of State to make 30 hours free childcare available for three- and four-year-old children of working parents, with associated regulations setting out the duties on local authorities to secure provision (UK Statutory Instrument, 2016). An Early Years National Funding Formula was also introduced: for the first time there was a ‘level playing field’ for the funding all providers (West and Noden, 2019).<sup>9</sup> By 2019, the majority of three-year-olds (65%) and disadvantaged two-year-olds (86%) benefiting from the ‘universal entitlement’ (15 hours) attended private (for-profit/not-for-profit) providers, whilst the remainder attended maintained nursery classes/schools. Most four-year-olds (78%) on the other hand attended reception classes in maintained primary schools (DfE, 2019a).<sup>10</sup>

In summary, the ideas from the mid-1990s onwards demonstrate broad continuity<sup>11</sup> as regards the overall role of the state in funding provision, and the role played by private-for-profit and not-for-profit providers. During this period, the number of nursery schools declined (although the number of children attending them fluctuated) (see Figure 2). Arguably the most significant change related to legislation from 1998 onwards imposing a duty on local authorities to secure provision for early childhood education, increasing the level of control by the central state to an unprecedented level. There was also a shift in the public philosophy with the government increasing not only early childhood education but also childcare, as it sought to promote women’s employment and an adult breadwinner, rather than a male breadwinner family model (see Lewis, 2013).

Figure 2 about here

### Discussion: Legislation, ideas, policy and provision

Legislative provision for pre-school education in England over the past century has been associated with major changes in policy and underpinning ideas. The earliest legislation for state-funded nursery education in England and Wales, the 1918 Education Act, enabled local authorities to provide nursery schools or classes for children whose attendance was ‘necessary or desirable for their healthy physical and mental development’. By 2017, part-time early childhood education and care was

1  
2  
3 available for all three- and four-year-olds and disadvantaged two- year-olds, with full-  
4 time provision being available for three- and four-year-olds with eligible working  
5 parents (via the 2006 and 2016 Childcare Acts).  
6

7  
8 Until the mid-1990s, state-funded educational provision was via maintained nursery  
9 schools and primary schools (nursery classes and reception classes). Following the  
10 1996 Nursery Education and Grant Maintained Schools Act, private-for-profit and not-  
11 for-profit became eligible for state funding. Subsequently, the 1998 School Standards  
12 and Framework Act, gave local authorities a duty to secure nursery education for  
13 children of specific ages. Whilst funding for nursery education was initially from both  
14 central and local government, from 2006 funding was via central government alone  
15 (West and Noden, 2019).  
16  
17

18  
19 Turning to the ideas underpinning pre-school education, the key problem identified in  
20 the early 1900s was how to meet the needs of poor children: elementary schools were  
21 not deemed appropriate and the idea of the nursery school – as found in other European  
22 countries, such as France – was proposed as a policy solution. The 1918 Education Act  
23 defined the problem further, with nursery schools or nursery classes being seen as the  
24 policy solution. However, LEAs had discretion as to whether to make such provision:  
25 nursery schools developed slowly over the next 20 years due to discretion at the local  
26 level and restrictions on public expenditure.  
27  
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29  
30 Ideas regarding the nature of the provision – nursery schools or nursery classes – were  
31 articulated in the 1933 Hadow report, with the former being best placed to meet the  
32 needs of children in poor areas and the latter where conditions were not quite so bad.  
33 Whilst nursery schools were costly, nursery classes were less so and were thus a policy  
34 solution when finances were constrained. Toward the end of World War II – which had  
35 seen an expansion of nursery provision to enable women to work – the 1944 Education  
36 Act was passed; this gave LEAs a duty to have regard to providing nursery education.  
37 The 1967 Plowden Report recommended expansion of nursery education, but also  
38 considered part-time attendance at nursery schools/classes to be preferable to full-time  
39 attendance for most children. It also made explicit the idea that LEAs should be given  
40 power to financially support not-for-profit providers. Although government proposals  
41 for expansion followed in the 1972 White Paper, *Education, a Framework for Expansion*,  
42 the subsequent recession meant that the policy targets regarding expansion could not  
43 be met. Because of insufficient funding, the DES argued that there was a need for policy  
44 to deal with relationship of nursery education to public and voluntary child day care.  
45  
46  
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49  
50 It was not until the 1990s that the Conservative government sought to expand nursery  
51 provision by explicitly bringing together nursery education and private and voluntary  
52 provision via a voucher scheme – an idea in line with the government’s political  
53 philosophy. Although the voucher scheme was short-lived, the idea of universal early  
54 childhood education continued, with the subsequent Labour government introducing an  
55 entitlement to nursery education – delivered by a mixed economy of providers – for all  
56 four-year-olds. The idea of central government planning provision of nursery education  
57 was replaced by the idea of choice of providers – ranging from nursery classes and  
58 nursery schools to providers in the private for profit and not-for profit (voluntary)  
59  
60

sectors. Under Conservative governments from 2010, further expansion of early childhood education (and care) took place – for disadvantaged two year olds – and from 2017 for three- and four-year-olds whose parents were in work.

In conclusion, legislative provision has had a marked impact on pre-school education in England since the beginning of the twentieth century. Provision has included primary legislation, notably the 1918 Education Act, the 1944 Education Act, the 1996 Nursery Education and Grant Maintained Schools Act, the 1998 School Standards and Framework Act, and the 2006 and 2016 Childcare Acts. It has also included regulation via statutory instruments (secondary legislation). Non-legislative provision - circulars and reports commissioned by the central education department – has also played an important role.

Alongside the legislative changes ideas have shifted. The 1918 Education Act saw nursery education as a way to meet the needs of poor children below compulsory school age, attending (inappropriate) elementary schools. By 2017, government-funded part-time early childhood education and care was seen as a way of meeting the needs of disadvantaged two-year-olds and all three- and four-year-olds (with full-time provision for three- and four-year-olds of eligible working parents).

Significantly the power of local authorities to provide or aid the provision of nursery education has been replaced by a duty to secure provision. Whilst there has been institutional continuity as regards maintained nursery schools and nursery classes, a 'layering' of private for-profit and not-for-profit institutions (PVI providers) to deliver government policy, has resulted in a mixed economy of government-funded providers. The role of PVI providers has been fundamental in 'filling the gap' in pre-school provision. Moreover, the assumptions underpinning government funding of pre-school education have changed fundamentally suggesting that the state is highly likely to retain its role as main funder – if not provider – of education for three- and four-year-olds with the control exerted by the central education department (cf. McCulloch, 2017) apparent from the late 1990s likely to remain.

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## 52 53 Notes

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55 <sup>1</sup> Although their histories regarding early childhood education differ (Nawrotzki, 2015), comparative  
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57 research on current education systems has shown the UK and the US to be in the same cluster or  
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59 'education regime' (Green et al., 2006; West and Nikolai, 2013).

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<sup>2</sup> Board of Education, 1899–1944; Ministry of Education, 1944–1964; Department of Education and  
Science, 1964–1992; Department for Education, 1992–1995; Department for Education and  
Employment (DfEE), 1995–2001; Department for Education and Skills (DfES), 2001–2007;  
Department for Children, Schools and Families (DCSF), 2007–2010; Department for Education 2010-

<sup>3</sup> The *école maternelle* was established toward the end of the 19th century (see West et al., 2019).

<sup>4</sup> For more details, see Steedman (1990).

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<sup>5</sup> No data on nursery classes are available as LEAs were not required to notify the Board of the establishment of nursery classes in elementary schools (HC Hansard, 1939).

<sup>6</sup> See West and Noden (2019) for details.

<sup>7</sup> Reception classes in primary schools cater for children between the ages of four and five. Compulsory education begins the term after children reach five.

<sup>8</sup> Parents have to earn at least the national minimum/living wage for 16 hours a week on average (DfE, 2018b) so long as neither parent have a taxable annual income over £100,000.

<sup>9</sup> Staff qualifications vary: qualified teachers are required in maintained nursery schools and primary school nursery classes.

<sup>10</sup> Since 2014, school admission authorities must provide for the admission of all children in the September following their fourth birthday (DfE, 2014).

<sup>11</sup> For political differences see Lewis and West (2017).

Figure 1 Number and percentage of pupils aged 3 and 4 in nursery schools, nursery classes and infant classes 1980-1988.

Source: HC Hansard 1988 [no comparable data prior to 1980]

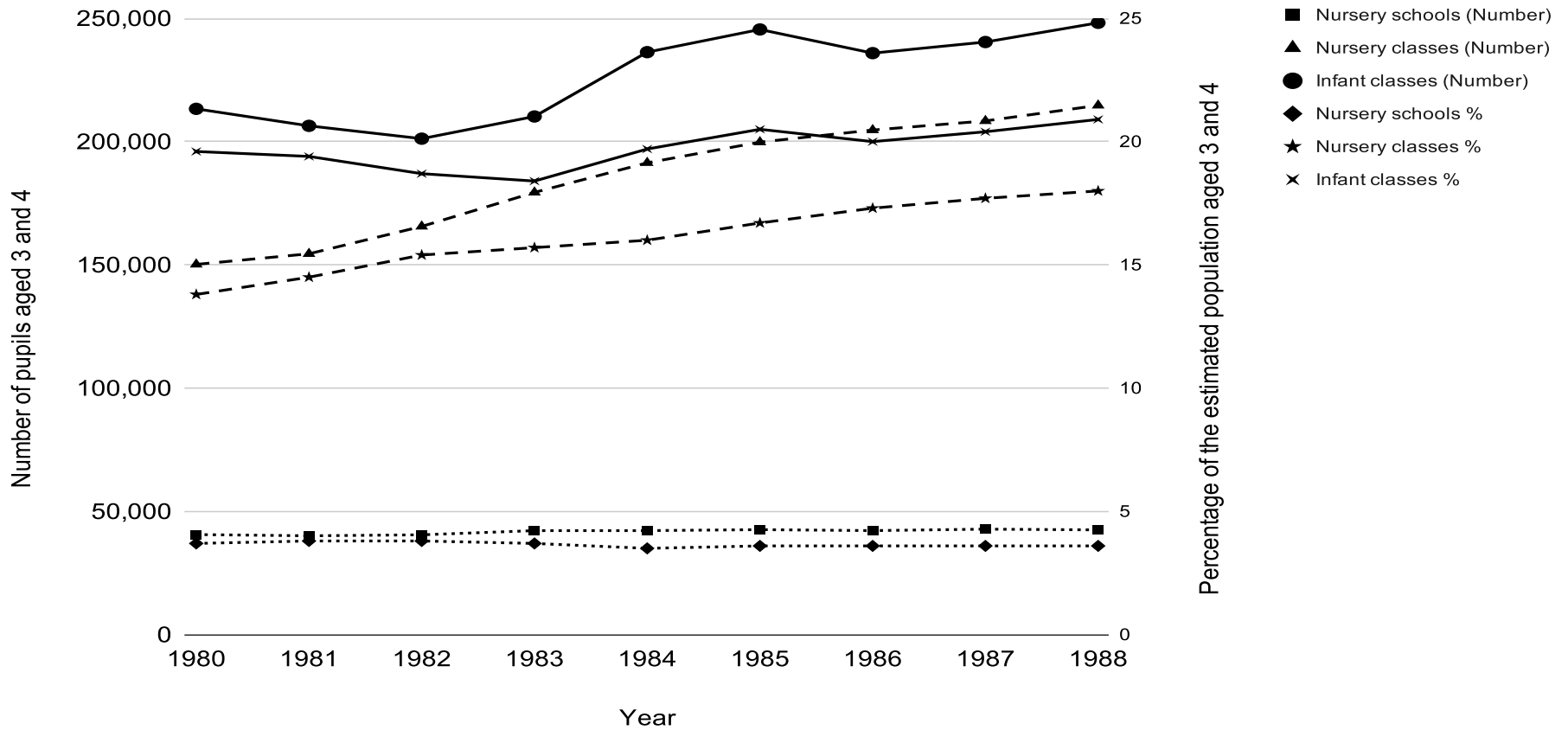


Figure 2 Number of nursery schools and number of pupils in nursery schools 1967-2019.

Source: DfES (2003), DfE (2019b)

