

Craig Ludlow

Year of Call: 2002

Email Address: craig.ludlow@3pb.co.uk

Telephone: 020 7583 8055



Overview

Craig is the Head of 3PB's Employment and Discrimination Law Team.

He practises exclusively in this area of law and is consistently ranked as a Leading Junior barrister in both the Legal 500 and Chambers & Partners legal directories, being variously described therein as:

'...a first class advocate. He quickly gets a grasp of the key issues of a case and is keen to understand a client's objectives and how he can get there.'

(Legal 500 2024/Employment/Leading Juniors/Western Circuit - Tier 1)

'Craig's strengths include making you feel at ease and confident in terms of how quickly he can pick up a matter and understand what's important.'

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"Led by the 'organised and efficient' Craig Ludlow, 3PB's employment group has 'a great strength in depth regarding employment law.'"

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"Always thorough and well prepared, with a keen eye for detail."

(Legal 500 2020/Employment/Leading Juniors/Western)

"Very knowledgeable and builds great client rapport."

(Legal 500 2018/19 /Employment/Leading Juniors/Western)

Strengths: *"He is affable and good at drilling down into the issue. He is calculated and erudite and has the respect of judges."*
"Craig is a very skilled advocate and has the complete confidence of our clients, furthering their interests in all ways."
"I am very impressed by Craig. He is absolutely meticulous, persistent and reliable. His exceptional advocacy inspires confidence in clients."

(Chambers UK 2024/Employment/London Bar)

Strengths: *"Craig is very personable and understands the industry inside and out."*

(Chambers UK 2024/Employment/Midlands Bar)

"a highly skilled advocate who places client care at the forefront of his work."

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"a commercially minded barrister; he has excellent attention to detail, he listens and seeks to resolve obstacles in a polite, pragmatic and respectful manner and he is assertive and firm at the appropriate times."

"He is a really good advocate, who is really approachable and is able to explain difficult concepts."

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Craig is also an elected Board Member of Chambers' national Policy Committee, an editorial Board Member of the Employment Lawyers Association (UK) Briefing magazine, a Member of the Institute of Directors, and a Member of the Non-Executive Directors' Association.

Having developed a successful nationwide practice spanning over 20 years, he is a highly experienced advocate who now acts predominantly for companies across the full range of employment-related claims brought in the Employment Tribunals, County Courts, and the High Court.

Reflective of his level of skill and experience in dealing with factually and legally complex disputes, Craig is regularly instructed to conduct multi-day and multi-week whistleblowing and discrimination cases.

He also has a particular academic and professional interest in employment status cases and cases involving trade unions:

Uber, Employment Status, and Whether Statutory Reform Is Still Necessary

Industrial Action: the present limitations on the ability of trade unions to call industrial action

During his time in practice, Craig has acted for and against: myriad local authorities; technology companies; engineering companies; financial services companies; national newspapers; charities; schools; colleges; care homes; GP and dental practices; NHS Trusts; recruitment consultancies; insurance companies; supermarkets; and adult education providers.

Consequently, he is very familiar with dealing with the Care Quality Commission ("CQC"), safeguarding issues, the Financial Conduct Authority ("FCA"), and all of the relevant professional, regulatory, and Ombudsman issues which arise from dealing with this type of litigation.

Over the last 15 years he has also developed a sub-specialism in transport work. Through his dealings with this type of work, he is very familiar with the specific policies, procedures, and contracts of employment that are sometimes unique to the transport industry. In particular, he is fully conversant with the commercial aspects of how London-based transport companies interact with and secure contracts with Transport for London ("TfL") and the standards which those companies must adhere to in order to retain such contracts. This can sometimes raise issues which require sensitive and careful handling. He has also been involved in litigation concerning Network Rail and international airlines.

He is frequently instructed by employers to provide strategic and policy advice, as well as advising them during the course of sometimes very factually and legally complex / sensitive grievance and disciplinary investigations and processes.

In more recent years he has also developed a specialty in advising both employers and employees on the enforceability of and / or breaches of post-employment restrictive covenants, applying for and defending applications for injunctive relief in the High Court, and on the various common law and equitable remedies which might be available to a successful party following such applications and subsequent claims.

He regularly provides case law updates, lectures, seminars, mock tribunals and bespoke training to solicitors, employer clients (including Boards of Directors and CEOs), and Human Resources professionals. Most recently, such training has included mental health issues arising in the context of disability discrimination claims, flexible working post-pandemic, and also a webinar explaining the detail of the Coronavirus Job Retention Scheme and its wider implications for employers and employees in the workplace.

He is also an approved lecturer with ACAS and has given numerous lectures with employees of ACAS around the country to businesses and HR professionals on subjects ranging from misconduct dismissals, Tribunal procedure, TUPE, and most recently on flexible working applications in the context of hybrid working.

Craig has been appointed to the panel of barristers of the Employment Lawyers Appeals Advice Scheme ('ELAAS'). ELAAS is a service offering pro bono employment law advice to appellants and respondents where there is a preliminary hearing in the Employment Appeal Tribunal with no previous legal representation on record.

Recommendations

Craig Ludlow acts for a large client base of employers in numerous sectors. He appears in tribunals defending discrimination and unfair dismissal claims, and has advised companies on redundancy strategies and other issues.

Strengths: *"Craig is very personable and understands the industry inside and out."*

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Craig Ludlow leads 3PB's employment and discrimination practice. He regularly advises public and private sector clients, and he has a particular interest in handling employment cases in the transport sector. His skills include unfair dismissal, whistleblowing, discrimination and breach of contract claims.

Strengths: *"Craig is a very efficient and helpful barrister who is approachable and commercially sensitive with clients."*

"Craig is a highly skilled advocate who places client care at the forefront of his work."

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What Craig's solicitors and lay clients say about him

"A 'go to' Barrister who installs confidence in his Instructing Solicitors and clients alike, who consistently drives through

evidence to understand the facts, ensures the highest attention to detail and presentation of his case whether written or through highly skilled advocacy. His attention to detail and timely actions never fail to impress."

Managing Partner, Baker Law solicitors

"A firm favourite with clients due to his amiable nature and capabilities, Craig consistently delivers. An experienced, meticulous advocate who inspires confidence and gets results."

Partner, Howard Kennedy solicitors

"Craig consistently delivers...His advocacy is fearless and persuasive."

Principal, LB Law

"From my first meeting with Craig I have enjoyed working with him. He is clever, articulate, prepared to listen and displays excellent judgement, resulting in a calming and down to earth manner with clients. His attention to detail and meticulous preparation and presentation of our case was evident at the Tribunal and he was absolutely formidable in cross-examination"

President, Cyient Europe Ltd

"Craig was very detailed in identifying any problem areas in the witness evidence to be presented to the employment tribunal and had a firm grasp of the documentary evidence. He clearly struck a rapport with my client and helped put them at ease. He provided speedy and helpful advice to me both prior to, and during the course of, a lengthy hearing."

HR Director, Renewable Energy Systems Ltd

"Craig's attention to detail and focus during a case makes him a formidable opponent as no stone is left unturned during his cross examination. He is also incisive in his questioning of clients and solicitors before a case begins, producing clear and concise advice."

Solicitor, Palmers

"I found Mr Ludlow's support in preparing for the tribunal to be extremely insightful in anticipating the potential areas for questioning. During the tribunal Mr Ludlow clearly demonstrated his excellent skills in cross examining, being clear to keep focused on the merits of the case and defending the Company's course of actions taken. His attention to detail and in depth knowledge of relevant employment legislation was evident in the manner in which he delivered the summing up of the case. Mr Ludlow is highly articulate with a high level of intelligence that enables him to quickly present the core issues and excellently defend his client's case."

Claimant

Academic qualifications

- LLB (Hons), University of Newcastle-Upon-Tyne
- BVC from BPP Law School, London (Very Competent)

Professional qualifications & appointments

- Accredited Mediation Advocate
- Complaints Officer for the Employment and Discrimination Group
- Member of the Editorial Board of the Employment Lawyers Association (UK) Briefing magazine

Professional bodies

- Employment Lawyers Association (ELA)
- Employment Law Bar Association (ELBA)
- Industrial Law Society (ILS)
- Institute of Directors
- Non-Executive Directors' Association

Expertise

Employment and discrimination

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A brief overview of his trial experience in the recent past is set out below:

Skarbek-Cieleck v Holly Rise Consultants Ltd t/a Bluebird Care (Case No: 2303648/2017) – Successfully representing the respondent homecare provider in claims made against it for direct race discrimination and breach of the working time regulations.

Mustafa v Metroline West Ltd (Case No: 3328088/2017) – Successfully representing the respondent bus company in claims made against it for detrimental treatment for trade union activity and unfair dismissal.

Thomas v Youth Hostel of England & Wales Ltd (Case No: 1403380/2018) – Successfully representing the respondent at a preliminary hearing dealing with the issue of employment status, at which it was held that the Claimant was self-employed.

Taylor v EDF Energy Ltd (Case No: 1403518/2018) – Successfully representing the respondent energy company at a preliminary hearing on its application to strike out the claimant's claims for disability discrimination and unfair dismissal.

Brown & Others v (1) London General Transport Services Ltd (2) Blue Triangle Buses Ltd (3) East London Bus & Coach Company Ltd (Case No: 3310904/2014) – Successfully representing one of three respondent bus companies in claims brought by 55 bus drivers for unauthorised deductions from wages arising out of historic claims for meal allowances following multiple TUPE transfers. The trial lasted for 6 days and all claims were dismissed.

Anonymous v East London Bus & Coach Company Ltd (Case No: 3202012/2015) – Successfully representing the Respondent bus company, its Operations Director, and one of its Acting Supervisors in an 8 day trial involving complex claims of detriment because of making various protected public interest disclosures and claims for direct sex discrimination, sexual harassment, and unfair dismissal.

Spinelli v Menzies Aviation (UK) Ltd (Case No: 3200653/2016) – Successfully representing the Claimant in a claim for unfair dismissal against an aviation logistics company involving a breach of airport security. Following the successful conclusion of the case, the Claimant and her husband said of Mr Ludlow: *"From the first conversation over the phone I found Mr Craig Ludlow to be very smart, knowledgeable and honest on the merit of the case. He worked very hard preparing for the case in a short period which happens to be a complicated and sensitive case. Craig was very meticulous in his work; his attention to details was brilliant which helped my case. Craig was outstanding in cross-examining the respondent's witnesses. He was very persuasive in putting the important points across. My husband and I were very impressed by Craig's professionalism that we decided after the hearing to instruct Craig on a direct access basis. Craig was a very smart negotiator prior to the remedies hearing. He was in constant contact with me despite his busy schedule. Craig always responded promptly to my emails and phone calls even during the weekend. His advice was very precious. Craig's contribution, his professionalism and dedication makes the difference between a Barrister and an outstanding Barrister. We are so grateful to you and that would have been the case regardless of the outcome. I would highly recommend you to anybody looking for your services."*

Luke v Venson Automotive Solutions Ltd (Case No: 2301755/2016) – Successfully representing a Respondent fleet management company in a 4 day trial involving claims of detriment made by a male claimant for taking leave for family reasons and constructive unfair dismissal.

Shaikh v Tower Transit Operations Ltd (Case No: 2208392/2016) – Acting for the Respondent bus company at a preliminary hearing and securing deposit orders totalling £7,000 in respect of claims for: direct discrimination on the grounds of race, religion, and disability; discrimination arising from disability; indirect discrimination on the grounds of disability; failing to make reasonable adjustments on the grounds of disability; harassment on the grounds of all of the above protected

characteristics; and victimisation.

Coffey v B M Pearson Ltd (Case No: 1400571/2016) – 10 day trial representing the Defendant dental practice in numerous historical whistleblowing claims and a claim for constructive unfair dismissal raising issues involving NHS England and the Care Quality Commission.

Omar v Tower Transit Operations Ltd (Case No: 3201534/2014) – Successfully representing a Respondent bus company in a 5 day trial involving claims for direct race discrimination, religious discrimination, and unfair dismissal. The judgment in the case records variously that: *"We agree with Mr Ludlow for the Respondent that where the Claimant disputes the contents of the notes of meetings he does so selectively when it suits him or his case to do so..."*; *"We think there is some force in the suggestion put to the Claimant by Mr Ludlow that he was "making it up as he went along"..."*; *"Mr Ludlow correctly points out that the Claimant made no reference in this considered occurrence report (which the Claimant headed "Horrific Occurrence") of (i) spitting; (ii) racial abuse; (iii) discrimination on grounds of race or religion; (iv) being accused of praying by Mr Asew or (v) any allegation that his Somali national origins or Muslim religion were relevant"*; and *"We think Mr Ludlow's observations on behalf of the Respondent as to the Claimant's credibility are well made"*. Mr Ludlow recently secured a costs order for £12,616 against the Claimant, which was the full amount of the Respondent's legal fees.

Taylor v (1) Endeavour Insurance Services (2) CGNMB LLP – Successfully representing the Claimant in a 3 day preliminary hearing involving TUPE issues and claims for direct sex discrimination and unfair dismissal.

Styles v London United Busways Ltd – Successfully representing the Respondent bus company in a 7 day trial involving numerous and wide ranging historical complaints of direct sex discrimination and harassment, as well as claims for unfair dismissal claim, race discrimination, direct disability discrimination, failure to make reasonable adjustments, indirect discrimination on grounds of disability, and discrimination arising from disability.

Atanasiu v Personnel Selection Associates Ltd – Appearing for the Respondent recruitment agency and succeeding in an application to strike out a claim against them for alleged direct sex discrimination and sexual harassment by an employee of their client.

Chasha v Swarthmore Housing Society Ltd – 9 day trial acting for the Respondent care home involving claims of direct race discrimination and unfair dismissal.

Patel v East London Bus & Coach Company Ltd – 4 day trial acting for a Respondent bus company involving claims for direct race discrimination and unfair dismissal.

Anwar v Sir George Monoux College – Successfully representing the Respondent college in an 8 day trial involving claims of direct race discrimination, indirect race discrimination, and unfair dismissal.

Llewellyn-Jones v Cyient Europe Ltd – Successfully represented the Respondent in a 3 day trial involving a claim for constructive unfair dismissal arising out of a mobility clause in the Claimant's contract of employment.

Denton v Renewable Energy Systems Ltd – Successfully representing the Respondent in a 3 day trial involving a claim for unfair dismissal arising out of a redundancy process.

Field v Bournemouth Transport Ltd – Successfully representing the Respondent bus company in a 2-day trial involving claims for unfair dismissal, age discrimination, and disability discrimination.

Osei-Agyeman v East London Bus & Coach Company Ltd – Successfully representing the Respondent bus company in a 3 day trial involving claims for direct race discrimination and unfair dismissal, in which the unsuccessful Claimant was ordered to pay £7,500 towards the Respondent's costs on the basis that the complaints were misconceived and it was unreasonable for him to have continued to pursue his claims.

Miah v Docklands Buses Ltd – Successfully representing the Respondent bus company in a 2-day trial involving claims of unfair dismissal, trade union discrimination, unlawful deduction from wages, and breaches of the Working Time Regulations in respect of holidays.

Hamdoun v London General Transport Services Ltd – Successfully representing the Respondent bus company in a 5 day trial

involving claims for direct race discrimination and unfair dismissal.

Looking ahead to 2019, Craig has already been instructed to conduct numerous multi-day trials, including:

- Acting for a storage company in a 5 day race discrimination and unfair dismissal case.
- Acting for a multi-national mobile telephone provider in a 5 day disability discrimination and unfair dismissal case.
- Acting for a social media consultancy in a 5 day pregnancy and maternity discrimination, sex discrimination, and unfair dismissal case.
- Acting for a bus company in a 6 day multiple and historic whistleblowing and unfair dismissal case.
- Acting for a Trust in a 7 day trial involving whistleblowing detriment allegations and unfair dismissal, in a case in which Craig has already successfully had multiple detriment allegations and a failure to make reasonable adjustments claim dismissed on jurisdictional grounds at a preliminary hearing (Case No: 2602066/17).
- Acting for the National Register of Public Service Interpreters in a 5 day trial involving claims of whistleblowing detriment and dismissal, health and safety whistleblowing and detriment, age discrimination, disability discrimination, harassment, and unfair dismissal.
- Acting for a warehousing, distribution, transport, and logistics company in a 5 day trial involving claims of victimisation and unfair dismissal.

Articles

Craig Ludlow on the case of *Hargreaves v (1) Evolve Housing & Support (2) Mr Simon McGrath*, in which the EAT reminds us how difficult it is to get claims struck out before Employment Tribunals.

Specifically, in this case, cogent evidence was needed to support the assertion that a fair trial was not possible because of the claimant's conduct, instead of simply relying on the ET to make this assumption.

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Craig Ludlow analyses the case of *Virgin Active Ltd v Hughes* [2023] EAT 130, in which the EAT considers the effect of delay on the fairness of a trial and emphasises the importance of considering material differences in circumstances between claimant and comparators when deciding whether burden of proof has shifted.

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Craig Ludlow analyses the case of *HHJ Kalyani Kaul KC v (1) Ministry of Justice (2) The Lord Chancellor (3) The Lord Chief Justice* [2023] EAT 41 in which the EAT states that the need for caution when considering a strike-out application does not prohibit realistic assessment where the circumstances of the case permit.

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Craig Ludlow analyses the present ability of and limitations on Trade Unions to call industrial action.

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Craig Ludlow reviews *Hope v British Medical Association* EA-2021-000187-JOJ, in which the EAT reminds us that the starting point in determining if a dismissal on the grounds of gross misconduct is unfair, is always section 98 of the Employment Rights Act 1996 and not whether the conduct relied upon was capable of amounting to gross misconduct in the contractual sense.

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Ms M Driscoll (Nee Cobbing) v (1) V & P Global Ltd (2) Mr F Varela (EA-2020-000876-LA; EA-2020-000877-LA)

Craig Ludlow analyses the EAT's decision in *Ms M Driscoll (Nee Cobbing) v (1) V & P Global Ltd (2) Mr F Varela* (EA-2020-000876-LA; EA-2020-000877-LA) and its likely implications on the number of harassment claims connected to

constructive dismissal claims.

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Craig Ludlow analyses Mercer v (1) Alternative Future Group Ltd (2) Pritchard (UKEAT/0196/20/JOJ), a judgment which constitutes, without doubt, a significant development in the field of trade union / industrial relations and a resounding victory for the claimant and trade unions generally.

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Uber BV and others v Aslam and others

Craig Ludlow analyses the Supreme Court's judgment in Uber and examines its likely potential scope and impact on the issue of employment status in the future.

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3PB's specialist employment law barrister Craig Ludlow reviews "'Changes to terms and conditions; Individual and Collective Redundancy Consultation - Q&A'"

[View Article](#)

Employment status: Revenue v Customs Commissioners v Professional Game Match Officials Ltd [2020] 5 WLUK 118

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Updates to the Coronavirus Job Retention Scheme, The 2nd Treasury Direction, SSP and Annual Leave by Craig Ludlow.

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Employment Tribunals in the pandemic: The Presidential Guidance, the reality, and the future
By Craig Ludlow

The Guidance

1. The Presidential Guidance issued in connection with the conduct of Employment Tribunal proceedings during the COVID-19 pandemic was effective from 18th March 2020 .
2. At the outset of the Guidance it is stated that Employment Tribunals must have regard to it, but they are not bound by it.
3. It goes on to state that the parties are required to assist Tribunals to further the overriding objective set out in rule 2 of the Tribunal Rules ('the Rules') .
4. The Guidance strongly encourages Tribunals and parties to use electronic communication methods, including Skype for business and video conferencing technology where available to conduct hearings of all kinds, where doing so is compatible with the overriding objective and the requirements of the Tribunal Rules.

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COVID-19 Q&A: The Coronavirus Job Retention Scheme and potential Equality Act issues arising from it

Thank you to the 180 individuals who attended 3PB Employment & Discrimination Group's first webinar on 23rd April 2020. We intend to provide another webinar on 2nd June 2020.

This article supplements the webinar that we provided and accordingly reproduces (albeit in more detail) the commentary provided on the day. As anticipated, the government's guidance has been revisited and supplemented on several occasions since the webinar! Therefore this article has been updated to take account of revisions up to 1st May 2020. In addition, we have included further considerations and detail on matters raised in some of your questions.

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Equal Pay: material factor defence - Craig Ludlow reviews (1) Co-Operative Group Limited (2) Pennycook ('R') v Walker (UKEAT/0087/19/RN)

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Employment Status (again): Worker, employee or self-employed? Craig Ludlow analyses Stuart Delivery Limited v Mr Warren Augustine (UKEAT/0219/18/BA)

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Whistleblowing: Interim relief applications where 'employee' status in dispute - Craig Ludlow analyses Dr Colin Hancock v Ter-Berg and anor (UKEAT/0138/19/BA)

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Limitation: What type of "conduct" can form part of a "course of conduct" for EqA 2010 limitation purposes? Craig Ludlow analyses South Western Ambulance Service NHS Trust v Mrs King (UKEAT/0056/19/00)

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3PB barristers Craig Ludlow and Sarah Clarke analyse the latest employment law cases, covering March, April and May 2019:

- Time limits and the correct approach to the reasonable practicability of lodging ET claims when the previous fees regime was in place - Mr G Wray v Jewish Care (UKEAT/0193/18/JOJ)
- s.26 Harassment: The correct approach - Mr F Ahmed v The Cardinal Hume Academies (UKEAT/0196/18/RN)
- Criminal & Employer Investigations, Interim Injunctions & Mutual Trust and Confidence - North West Anglia NHS Foundation Trust v Andrew Gregg [2019] EWCA Civ 387
- S.15 Disability Discrimination based on mistaken belief - IForce Ltd v E Wood (UKEAT/0167/18/DA)
- Discrimination arising from disability/knowledge of dismissing officer and appeal officer - Baldeh v Churches Housing Association of Dudley & District Limited UKEAT/0290/18/JOJ
- Employee Suspension: Necessity or Reasonable and Proper cause? - The Mayor & Burgesses of the London Borough of Lambeth v Agoreyo [2019] EWCA Civ 322
- Compensatory rest break need not be an uninterrupted 20-minute period, even if such a break was in fact possible to provide - Network Rail Infrastructure Ltd v Crawford [2019] EWCA Civ 269
- TUPE transfer/sole or principal reason for dismissal/proximity of transfer - Hare Wines Ltd v Kaur [2019] EWCA Civ 216

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- Non-solicitation and non-competition clauses in employment contracts - Freshasia Foods Ltd v Jing Lu [2018] EWHC 3644 (Ch)
- Whistleblowing - protected disclosures - teachers - unfair dismissal - migrant work visas - K Gibson v (1) Hounslow London Borough Council (2) Crane Park Primary School UKEAT/0033/18/BA
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