



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss Elizabeth Digby

**Respondents:** (1) St Faith's  
(2) The Leys and St Faith's Schools Foundation  
(3) St Faith's of The Leys and St Faith's Schools Foundation  
(4) St Faith's School  
(5) St Faith's School

**Heard at:** Bury St Edmunds (preliminary hearing in public via CVP)

**On:** 10 October 2022

**Before:** Judge Brian Doyle (sitting alone)

**Representation:**

Claimant: Mr Chris Jordan, the claimant's partner

Respondents: Ms Abigail Trencher, solicitor

**JUDGMENT** having been signed by the judge on 10 October 2022 and written reasons having been requested in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided:

## REASONS

### Introduction

1. These are the written reasons for an oral, *ex tempore* judgment delivered in summary form at the conclusion of a one-day preliminary hearing to determine, among other things, the correct respondent to this claim. The claimant made a request for written reasons under rule 62 at the hearing itself.
2. References in square brackets below are to pages in the documents bundles put before the Tribunal.
3. The claimant was represented by her partner, Mr Jordan. The respondents were represented by Ms Trencher, a solicitor.

### **Procedural history**

4. Following early conciliation involving various prospective respondents between 13 September 2021 and 30 October 2021 [6-10], the claimant presented an ET1 claim to the Tribunal on 23 November 2021 [11-91]. The claim was said to arise from the claimant's employment as a teacher at St Faith's School in Cambridge between 1 September 2018 and 21 June 2021. In fact, the claimant was first employed at the school in 2007, but the respondents' position is that there was a break in her employment in or around 2018. The claim is primarily a claim for unfair dismissal, but there are other jurisdictional complaints referred to within it [86-91].
5. Responses to the claim on form ET3 were presented by the various respondents on 11 January 2022 [92-113 from the 2<sup>nd</sup> respondent and 114-159 from the other respondents]. The 2<sup>nd</sup> respondent, The Leys and St Faith's Schools Foundation, accepted that it was the claimant's employer and that it was the correct respondent to the proceedings rather than the remaining respondents.
6. The claimant provided further and better particulars of her claim dated 26 May 2022 [164-169]. The claimant did not accept that the 2<sup>nd</sup> respondent was the correct and/or only respondent.
7. A preliminary hearing for case management purposes took place on 29 June 2022 before Employment Judge Skehan [170-183]. Judge Skehan listed the claim for a final hearing to take place on 9-20 October 2023. She listed the present preliminary hearing to identify the correct respondent; to consider the claimant's application to join various individual respondents; and, if time allowed, to deal with any other applications, including for strike out or deposit order, and any outstanding matters of case management.
8. On 3 August 2022 solicitors acting for the respondents provided additional information requested by the claimant [184-186]. On 26 August 2022 the claimant queried the accuracy of Judge Skehan's case management summary and case management orders [187-200]. On 30 September 2022 solicitors acting for the respondents restated their position regarding the correct respondent and identified some other issues [201-202]. On 3 October 2022 the claimant applied to strike out the response for alleged failures of disclosure [212-213]. See also [214-256].
9. Against that background, the Tribunal today dealt primarily with the question of the correct respondent and then addressed various outstanding matters, which were made the subject of Case Management Orders attached to its Judgment (which are considered in the final paragraphs below).

### **The evidence**

10. The Tribunal was presented with an electronic bundle comprising 519 pages. The Tribunal had read this material in its preparation for the hearing. However, at the hearing itself the claimant introduced a second bundle comprising 637 pages, which incorporated the first bundle, but with additional documents upon which the claimant relied. This included some "without prejudice" documents or

other documents that would or might not be admissible [622-627], which the Tribunal has taken care to avoid considering, and which are unlikely to be relevant to the preliminary issue in any event.

11. After a break of an hour so that the Tribunal could consider, so far as was appropriate, the additional documentary evidence, the Tribunal heard evidence from Mr Paul McKeown, the Bursar at The Leys School. Mr McKeown is also Clerk to the Governing Body of The Leys and St Faith's Schools Foundation. Mr McKeown has held these positions for 19 years.
12. Mr McKeown's evidence is that The Leys and St Faith's Schools Foundation was the claimant's employer at the relevant time and that it is the correct respondent to the proceedings. The claimant does not accept that The Leys and St Faith's Schools Foundation was her employer. She has continued to dispute this point and to dispute that The Leys and St Faith's Schools Foundation is the correct respondent. This is despite it being confirmed to her on numerous occasions that it was her employer; that it is the correct respondent to these proceedings; and that the grounds of resistance confirm this [100-101 and 146-147].
13. The claimant cross-examined Mr McKeown and the Tribunal also questioned him. The examination of Mr McKeown's evidence took most of the day. It was then followed by submissions from both representatives.

#### **Assessment of the witness evidence**

14. The Tribunal found Mr McKeown to be an impressive and compelling witness. He had a detailed knowledge of the respondents' operational arrangements and recent history, and of their governance and management provisions. He gave measured evidence, making concessions or admissions where appropriate to do so, and obviously taking care to avoid speculation or to give answers to questions where he had no direct knowledge of the matter being inquired of. The Tribunal has no hesitation in accepting the contents of his witness statement, together with various other matters to which he testified.

#### **The key documents**

15. There are various key documents which might be said to point one way or another in trying to identify the correct respondent. They are as follows.
16. The claimant's contract of employment dated 20 March 2007 [523-525]. This is the claimant's original employment contract from 2007. It refers to St Faith's School. It describes the employer as "The Governors of The Leys and St Faith's". It is signed by the Headmaster.
17. Trustees Report and Financial Statements (year ending 31 July 2011) [381-383]. This allows the Tribunal to see the position immediately before The Leys and St Faith's Schools Foundation decided to incorporate as a registered company limited by guarantee. Its registered charity number at that time was 311436. A registered charity with that number no longer exists [384-390]. That is because on registration as a company the charity number became 1144035.

18. ISI regulatory compliance report 2017 [503-505]. This Independent Schools Inspectorate report refers to the ownership and governance of the school residing with the Foundation.
19. The claimant's contract of employment dated 20 May 2018 [261-270]. The front page of the contract describes the parties as "ST FAITH'S of The Leys and St Faith's Schools Foundation" and "Miss Elizabeth Digby" [261]. The contract is said to be between "St Faith's" and the claimant [262]. References thereafter are to "the School". There are references to the Common Room Handbook. The contract is signed by the Headmaster. The claimant's job description and person specification are included in this document and they refer to "St Faith's".
20. St Faith's School's Teaching Staff Handbook 2018/19 [257-260]. This document records that the school is owned by The Leys and St Faith's Schools Foundation. It is managed and led by its own management team and Committee of Governors. The Governing Body of the two schools is the Foundation Trustees. The St Faith's Committee is a group of Governors which meets termly to oversee the management of the school.
21. The Leys and St Faith's Schools Foundation – Disciplinary Policy and Procedure [271-282]. This expressly refers to the Foundation (the 2<sup>nd</sup> respondent). It is a document that appears to have been created in 2014 and reviewed in 2020. It refers throughout to "the School" as meaning either St Faith's School or The Leys School. The respondents' position is that this is the document that was followed in the procedure that led to the dismissal of the claimant.
22. A letter to the claimant dated 1 April 2021 outlining her part-time teaching contract for 2021/22 [283-284]. This is on headed notepaper using only the trading style or branding of the school – "St Faith's Cambridge". There are references to the School and to the Governors, but not to the Foundation. It is signed by the Headmaster.
23. An email dated 22 April 2021 from the school to the claimant [285]. It uses only the trading style or branding of the school – "St Faith's Cambridge". There is no reference to the Foundation.
24. The claimant's statutory statement of employment particulars dated 3 August 2021 [286-294]. The claimant's employer is described as "St Faith's of The Leys and St Faith's Schools Foundation" (the School).
25. Annual Report and Group Financial Statements (year ending 31 July 2021) [334-380]. This document is prepared on behalf of both the charity (1144035) and the company (07748737) known as The Leys and St Faith's Schools Foundation. The Governors are both the Trustees (of the charity) and the Directors (of the company). The officers include the Headmasters of the two schools, the Bursars and the Clerk. It records that: "The Charity was founded in 1875, and was registered with the Charity Commission under charity number 311436. In 2011, the Governors reviewed the legal status of the Foundation and decided the charity should become a Company Limited by Guarantee. This process was completed in December 2011. The Charity Number is 1144035 and the Company Number is 7748737." Otherwise, the Tribunal does not

reproduce the content of this document which points towards the Foundation being a registered charity and registered company that owns, manages and operates two schools, St Faith's School and The Leys School.

26. Extract from the Charities Register (26 September 2022) re The Leys and St Faith's Schools Foundation. This records the Foundation as being a registered charity (1144035), first registered in March 1965. It is an education provider operating two schools, St Faith's and The Leys. It presents a healthy financial picture and healthy financial history. It is also a registered company (07748737), incorporated in 2011. The trustees are identified. There is a number of linked charities.
27. Companies House snapshot [391-405]. This requires no comment.
28. Companies House incorporation documents [406-480]. This requires no comment.
29. Companies House searches [481-489]. This requires no comment.
30. St Faith's Cambridge webpage [491]. It uses the trading style or branding of the school – "St Faith's Cambridge". There is a clear reference to the Foundation; and to its ownership of the two schools; and to the management and governance arrangements. See also [492], which establishes the history of the ownership of the two schools by the Foundation.
31. The Tribunal here also acknowledges the additional documents that the claimant put before the Tribunal at the hearing [522-637]. These documents commence with an additional index at [520-521]. There is some duplication in these documents, in that some also appear in the main bundle.
32. These documents are put before the Tribunal with the intention of showing instances where key documents do not refer to "The Leys and St Faith's Schools Foundation"; or where there are simple references to "St Faith's" or "St Faith's School" or "St Faith's of The Leys and St Faith's Schools Foundation" or variations thereof; or to suggest that there is doubt about the history of the Foundation or the charity or the company (see, in particular [580], which is a document prepared by the claimant for these proceedings).
33. The claimant also seeks to challenge whether the respondents' solicitors have authority to act on behalf of one or more of the named respondents. The Tribunal understands that the claimant thereby seeks to show that the 2<sup>nd</sup> respondent is not the employer, but that instead various individuals (Governors and/or Trustees and/or Officers) should be named as respondents.

### **Findings of fact**

34. The claimant has brought her claim against five different respondents: (1) St Faith's; (2) The Leys and St Faith's Schools Foundation; (3) St Faith's of the Leys and St Faith's Schools Foundation; (4) St Faith's School; and (5) St Faith's School. The 4<sup>th</sup> and 5<sup>th</sup> respondents are named twice because there is a question mark about the correct postcode of these possible parties.

35. The Leys and St Faith's Schools Foundation owns and operates two schools in Cambridge. St Faith's School (St Faith's) is an independent preparatory day school for boys and girls aged 4 to 13 years old. The Leys School (the Leys) is an independent boarding school for boys and girls from 11 to 18 years old.
36. Each school is managed and led by its own management team. Each school has a subcommittee of Governors from the main board of Governors of The Leys and St Faith's Schools Foundation. However, while separate and independent of each other, senior staff from both schools meet regularly to ensure close collaboration and a continuity of educational ethos. Furthermore, each school is governed by one and the same Governing Body – that is, the Governing Body of The Leys and St Faith's Schools Foundation (the Governing Body).
37. Whatever the position might have been in 2077, by the end of 2011 the claimant was employed as a teacher by The Leys and St Faith's Schools Foundation. After a gap in employment in early 2018, which is said to have severed her continuity of employment, the claimant resumed employment with The Leys and St Faith's Schools Foundation on 1 September 2018. She worked as a pre-prep teacher at St Faith's School, teaching pupils aged between 4 to 7 years. Her contract of employment is dated 20 May 2018 and signed by her on the same date [261-267]. On 5 July 2021, the claimant requested a statutory statement of employment particulars. A copy of the statement was provided to her [286-294].
38. Mr McKeown accepts that these documents could have set out the legal entity employing the claimant with greater clarity. The Tribunal agrees. Nevertheless, both documents refer to "The Leys and St Faith's Schools Foundation" [261 and 286]. The two schools operate separately and independently of one another. It has become common practice for contracts of employment to refer to the school at which the individual is or will be working rather than simply referring to the legal entity, The Leys and St Faith's Schools Foundation.
39. An extract of St Faith's Teaching Staff Handbook 2018/19 [257-260], which was in place during the claimant's employment, explains that The Leys and St Faith's Schools Foundation is a registered charity which owns the two schools. It also explains that the Governing Body governs the two schools.
40. A copy of the disciplinary policy and procedure which is used by both schools [271-282] refers to The Leys and St Faith's Schools Foundation on the first page [271]. This policy was provided to the claimant (and, it is said, followed by the 2<sup>nd</sup> respondent) as part of the disciplinary process that led to her dismissal.
41. Of the five named respondents or parties, The Leys and St Faith's Schools Foundation (the 2<sup>nd</sup> respondent) is the only respondent that is a legal entity. It is a registered charity under Charity Number 1144035. See the Charities Commission overview [320-333]. See also its most recent annual report for the year ended 31 July 2021 [334-380].
42. The charity was founded in 1875. It was originally registered with the Charity Commission under Charity Number 311436. In 2011 the Governing Body reviewed the legal status of The Leys and St Faith's Schools Foundation. It

decided that the charity should become a company limited by guarantee. The Leys and St Faith's Schools Foundation was registered as a company limited by guarantee in 2011 (under Company Number 07748737) on 22 August 2011. The Charity Number changed from 311436 to 1144035. From that date, Charity Number 311436 ceased to apply to the charity. See the annual report [337]. A search of the Register of Charities for Charity Number 311436 [384] shows that there are no results for that Charity Number.

43. The claimant relies in part upon an extract from The Leys and St Faith's Schools Foundation annual report for the year ended 31 July 2011 [381-383]. That document references Charity Number 311436 instead of Charity Number 1144035. The explanation for that difference is contained in the history set out immediately above.
44. The Leys and St Faith's Schools Foundation is also a company limited by guarantee under Company Number 07748737. A Companies House entry evidences this [391-405]. The incorporation documents are also included in the evidence [406-480].
45. There is no evidence that the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup> or 5<sup>th</sup> respondents are legal entities. Searches of the Register of Charities and of Companies House demonstrate that they are not registered legal entities [385-390 and 481-489]. There is no evidence to suggest that they constitute some other form of legal entity or a body with legal personality.
46. Extracts from the websites of St Faith's School and The Leys School [490-492] set out information about The Leys and St Faith's Schools Foundation. The St Faith's School website includes the 2<sup>nd</sup> respondent's registered charity number [491]. The St Faith's website also sets out details of key staff members [493-497]. That webpage also contains a link to details of the 2<sup>nd</sup> respondent's Governors, which are included on the Leys School's website [498-502].
47. The claimant requested disclosure of various documents, which are in evidence before the Tribunal. They are: (a) The Independent Schools Inspectorate (ISI) regulatory compliance report 2017 – St Faith's [506-512]; (b) a sample P45 [513]; (c) a sample submission to HMRC [514]; (d) a sample submission to the Teachers' Pensions Service (TPS) [515]; and (e) a sample submission to the Disclosure and Barring Service (DBS) [516]. These documents all refer to St Faith's School, although the ISI report refers to The Leys and St Faith's Schools Foundation in the "ownership and governing structure" section [507-508].
48. Mr McKeown's evidence – which the Tribunal accepts – is that the references to St Faith's School are purely for operational purposes. It is easier for The Leys and St Faith's Schools Foundation to manage the two schools by including reference to the relevant school on these documents, particularly as the two schools are treated as two separate costs centres. Furthermore, as St Faith's is a day prep school, and the Leys is a boarding senior school, the processes at the two schools are different. The schools are managed in this way to avoid any confusion that might be caused to HMRC, the TPS and the DBS by different submissions being made by the schools under the same name.

49. The claimant's lay representative provided an additional bundle of documents and further documents were provided during the hearing. To the extent that these documents include references to St Faith's School, the Tribunal accepts that this is because the two schools are treated separately for operational purposes (for HMRC, the TPS, the DBS, the Department for Education, the ICO and for payroll purposes) for the reasons set out above.
50. The Tribunal notes an apparent anomaly on the Charities Register. This records that the charity is The Leys and St Faith's Schools Foundation (1144035) registered on 28 September 2011. The Register also records a "linked charity" described as "The Leys and Saint Faith's Schools Foundation," (1144035-1), with "St" set out as "Saint" and a comma immediately after the word "Foundation". The record refers to a governing document in a scheme dated 30 December 2011. This also refers back to registration in 1965.
51. Mr Keown was unaware of this anomaly. He was unable to explain it. The Tribunal considers that the most likely explanation is that this is a cross-reference to the pre-2011 charity (which had a registration number of 311436) which merged with or was replaced by the 2011 charity re-registered as 1144035 in September 2011. Alternatively, this is equally likely to be a mistake in registration or recording, not least because the stray comma at the end of the title of this linked charity suggests an input error of some kind.
52. The Tribunal finds that there is one charity, and not two, and that that charity is The Leys and St Faith's Schools Foundation (1144035).
53. Although the Tribunal is not today deciding any question concerning the claimant's length or continuity of service, it is able to make some provisional findings that will assist it in determining who her employer at the effective date of termination of employment was.
54. The claimant gave notice of termination of her employment on 16 October 2017 with effect from 22 January 2018 [638]. The Headmaster agreed that arrangement, which the claimant acknowledged on 30 November 2017 [639].
55. However, subsequently the claimant agreed to provide the school with occasional supply teaching for the purposes of staff cover. That arrangement is recorded by the Bursar on 8 February 2018 [640]. A Supply Teacher Agreement with "St Faith's" was entered into [641-642]. It does not refer to the Foundation. That agreement is for irregular arrangements and expressly excludes continuity of employment.
56. Moreover, on 19 April 2018, the Headmaster offered the claimant new employment as a KS1 Teacher (Part-time) [643-642]. It appears that this was the result of an application made by the claimant. She accepted the offer. It is on St Faith's notepaper, but a footer refers to the school being part of the Foundation as a registered charity and company. Reference has already been made to the contract of employment that was then signed on 20 May 2018 [261-270].



**Respondent's submissions**

57. Miss Trencher for the respondents submitted that the 2<sup>nd</sup> respondent accepts that it is the appropriate respondent. It is the only legal entity of the five respondents named in the ET1 claim. It holds all the assets in relation to the two schools. The other respondents are not legal entities. The 2<sup>nd</sup> respondent is the only possible respondent.
58. In 2007 the claimant was first employed at St Faith's School. Her employer was the registered charity at that time (311436). The assets transferred in 2011 to a new charity (1144035). It also incorporated as a registered company limited by guarantee (07748737). The claimant's employment prior to 2018 simply transferred in 2011 to the new charity/company.
59. Since 2018 the claimant has been employed by the 2<sup>nd</sup> respondent. That much is clear. See the footer to the letter of appointment. The respondents accept that some terminology in its documentation could have been better clarified. However, the position is clear. The 2<sup>nd</sup> respondent is the employer.

**Claimant's submissions**

60. Mr Jordan for the claimant does not accept or believe that there has been any transfer of assets or of substance from St Faith's School to the Foundation in 2011 or subsequently. The claimant is concerned that her claim might become derailed down the line as a result. Her position is that the relevant charity is St Faith's School and that the relevant respondents are the Governors of the School.
61. The claimant has traced the relevant history [580]. Everything was in order until 2011. Then a second charity was formed and a new company was registered. The claimant referred to variations in punctuation and spelling in the relevant names and titles. There was a change to the original charity. There is no record of any assets, except the school buildings, being transferred. There was no TUPE transfer of staff. There is no reference to this in the annual reports.
62. The claimant repeated her concern that the limited company is out of view in nearly all aspects. In her submission, there remains two registered charities. As a result, it is the Governors who are the appropriate respondents.
63. The claimant referred to the respondents' assertions that the 2<sup>nd</sup> respondent's own St Faith's School. There is no other evidence of this. In her view, the purpose of forming a new company was to be a holding company for the bricks and mortar of the school.
64. Mr McKeown asserts that the 2<sup>nd</sup> respondent is the claimant's employer. That is in the ET3 and the grounds of resistance. There is no earlier evidence of that position. The Governors of the school are the correct respondent. The limited company and the association are the same people. There is no evidence that the 2<sup>nd</sup> respondent has a bank account or that it owns assets. There has been a huge amount of evidence, but limited disclosure.

65. The claimant made three final points. (1) The original charity (311436) still exists. It has a distinct and continuing identity. It has a separate identity. It is the correct employer. (2) In the latest contract letter, during the employment “gap”, there is no mention of the Foundation or the company. St Faith’s is not part of the Foundation. (3) The claimant has not had any dealings with Mr McKeown. She does not accept what he says. She worked for the school without there being any suggestion that the Foundation was her employer, at least until she was dismissed.

### **Relevant legal principles**

66. Neither party put before the Tribunal statutory provisions or case law authority. Undoubtedly that is because the question is one of fact rather than a question of law. Who was the claimant’s employer at the relevant time? Is that employer a legal entity with legal personality capable of being sued in its own name or must it be sued through its human brains and hands?

67. A contract of employment is not a species of contract whose enforceability relies upon it being reduced to writing or evidenced in written form. Nevertheless, contractual documents have been issued (including at least one letter of appointment and a statutory statement of employment particulars). The task of the Tribunal is to construe or to interpret that material in order to divine the reality of the employment relationship and, in particular, the true identity of the employer.

68. The Tribunal notes that in the public sector, unless it is a creature of statute, a school is an example of an unincorporated association. The rules on suing such a school in the name of the local education authority have been replaced in recent years. The law and practice now is to sue a public sector school via its governing body; and the procedure is that it is not strictly necessary to name the individual governors as parties to the proceedings. See *Affleck v Newcastle MIND* [1999] ICR 852 EAT; *Nazir v Asim* [2010] ICR 1225 EAT.

69. The position in the private sector is different. A private school will be owned and managed by its proprietors. They might be a sole trader, a partnership, a company, a trust, a charity and so on. Whatever form the legal entity takes, it is that legal entity rather than the school that must be proceeded against. There is little or no scope for suing the school’s governors or its management committee where there is a recognisable legal entity that can be proceeded against in its own name. It is not a choice between suing the proprietor as a legal entity with its own legal personality; or ignoring that and suing the governing body or management committee of the school as if it were an unincorporated association in its own right.

### **Discussion**

70. The Tribunal accepts the evidence of Mr McKeown and the submissions of Miss Trencher. Mr McKeown’s account of the history of St Faith’s School, of the registered charity, of the registered company and ultimately of The Leys and St Faith’s Schools Foundation is compelling and persuasive.

71. The balance of the documentary evidence points strongly to the fact that after 2011 the claimant was employed by the newly registered charity (1144035) and the newly registered company (07748737) together known as The Leys and St Faith's Schools Foundation. That impression is all the stronger when in 2018, after a short gap in her employment history, the claimant re-joined St Faith's School, first as a supply teacher and then as a part-time teacher.
72. The Tribunal is not here deciding whether there was a TUPE transfer in 2011 or whether her employment is continuous between 2007 and 2021. It is only concerned to identify who was employer at the date of her dismissal or at any time that is relevant for her claim. On the balance of probabilities, that was the 2<sup>nd</sup> respondent, The Leys and St Faith's Schools Foundation (a registered charity and registered company limited by guarantee).
73. The Tribunal understands the claimant's concerns and her anxiety that her employer and the respondent to her claim should be correctly identified. The respondents have invited doubt and confusion by the various and inconsistent ways in which they have over time referred to the school and to the legal entity that owns and manages it. The Tribunal accepts the operational reasons for referring to St Faith's School in matters of payroll and registration with, for example, HMRC, ISI, IOC, DBS and so on. It also understands the commercial sense of using a modern and attractive branding or trading style that refers to simply "St Faith's" or variations thereof on its letterhead, compliments slips, websites and so on. Nevertheless, greater care should have been taken with its employment contractual documentation.
74. However, for the reasons put forward by Mr McKeown in his evidence, and after careful analysis of the key documents, the Tribunal is satisfied that the claimant's employer since 2011, and certainly since 2018, is The Leys and St Faith's Schools Foundation (a registered charity and a registered company). There is only one registered charity. The original registered charity ceased to exist in 2011 and it was replaced by the new registered charity at or around the time the registered company was formed.
75. The Leys and St Faith's Schools Foundation owns, manages and operates St Faith's School. It is the employer. St Faith's School is not in those circumstances an unincorporated association that must be sued in the name of its management committee or governing body. The Foundation is the proprietor of the school. There is no need to issue proceedings against its governing body or its trustees because the Foundation has separate legal personality. It is a legal entity, capable of being sued in its own name, by virtue of its registered and incorporated status. It also has assets and a healthy financial position, which contradicts any suggestion that might be made that it is a mere shell that will collapse in the face of a judgment against it.
76. The claimant's documentary evidence provides reason to pause for thought, but in the final analysis it does not disturb the sound impression created that The Leys and St Faith's Schools Foundation was the claimant's employer and that it is the only correct respondent to her claim.

**Decision**

77. At the relevant times, for the purposes of the claimant's claim, her employer was the 2<sup>nd</sup> respondent – The Leys and St Faith's Schools Foundation – which is a registered charity (1144035) and a registered company limited by guarantee (07748737).
78. Accordingly, acting under rules 29, 34 and 37 of the Employment Tribunals Rules of Procedure 2013, the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> respondents are removed from the proceedings; or alternatively the claim against those respondents is dismissed or otherwise struck out as having no reasonable prospect of success. The title of the proceedings shall be amended accordingly.
79. The claim now proceeds only against the 2<sup>nd</sup> respondent (as identified in paragraph 1 of the Judgment above) either as an original respondent to the claim or in substitution for the other respondents.
80. The ET3 response and grounds of resistance presented by or on behalf of the 2<sup>nd</sup> respondent shall be treated as the response of that respondent (as identified in paragraph 1 of the Judgment above) and as validly accepted by the Tribunal.

**Further orders**

81. Further orders and provisions were attached to the Judgment. It is not necessary to set them out further here.

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Judge Brian Doyle

DATE: 20 October 2022

REASONS SENT TO THE PARTIES ON

13 February 2023

FOR THE TRIBUNAL OFFICE

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