

## STAR enforcer

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Practitioners familiar with Cayman Islands trusts will know that STAR<sup>[1]</sup> trusts are statutory in origin and unique to the Cayman Islands. One of their defining features is the statutory requirement to appoint an 'enforcer' who, as the name suggests, has standing to enforce the terms of the trust.

The other key features of a STAR trust include:

- the fact they may be established for persons or purposes or both;
- only the enforcer may commence legal proceedings against the trustee for breach of trust;
- usually only the enforcer is entitled to have access to information and documents relating to the trust (not the beneficiaries);
- the trustee must be, or include, a trust company licensed to conduct trust business in the Cayman Islands.

In practical terms, STAR trusts are a useful tool for forced heirship planning, as they benefit from the protection of the Cayman Islands' firewall regime. Their features often appeal to settlors who may be unfamiliar with trust structures and wish to limit the disclosure of information regarding their wealth to family members.

However, the office of enforcer has historically attracted scrutiny and, in some instances, criticism from various quarters regarding its effectiveness. This perception likely arises from a limited understanding of STAR trusts and the importance of the role of enforcer. Section 100 of the Trusts Act (2021 Revision)(the **Act**) could not be clearer: a beneficiary does not have standing to enforce a STAR trust; only an enforcer does. The enforcer has the ability to hold a trustee to account and to intervene in the administration of a trust, in much the same way beneficiaries can under ordinary trusts<sup>[2]</sup>. Recent decisions of the Grand Court of the Cayman Islands (the **Court**) highlight the importance of this role.

### AA v JTC (Cayman) Ltd<sup>[3]</sup>

In *AA v JTC (Cayman) Ltd* the Court considered, for what appears to be the first time, whether an enforcer has standing to seek the Court's blessing of a momentous decision involving the proposed exercise of one of their fiduciary powers, on the same basis as a trustee.

The enforcer sought the Court's approval, under a category 2 *Public Trustee v Cooper*<sup>[4]</sup> application, of its decision to instruct the trustee to exercise certain rights attached to shares held by the trustee for the benefit of the trust. The exercise of these share rights was central to the purpose of the trust and, under the terms of the trust, the enforcer had power to give the relevant instruction. The Court therefore needed to determine whether the proposed instruction would be in the best interests of the trust.

Applying the established principles from *Public Trustee*, the Court had no hesitation in concluding that a reasonable enforcer, in circumstances not impeded by conflicts of interest, would have reached the same decision. Accordingly, the Court granted the relief sought.

While the decision is not ground-breaking, it confirms that an enforcer may invoke the Court's jurisdiction on the same legal basis as a trustee when seeking approval. In doing so, the Court reinforced the vital role of the enforcer in the proper administration of STAR trusts.

## In the matter of the G Trust

This matter was the subject of 5 judgments between November 2023 and June 2025.

The factual background was complex<sup>[5]</sup>. A family business was run by two brothers, with shares in the holding company of the business held under a Hong Kong discretionary trust. Following the sudden death of one brother, who had been instrumental in running the business, the surviving brother controlled the appointor entity and arranged the transfer of the shares to a Cayman Islands STAR trust. The deceased's widow, a beneficiary of both trusts, brought proceedings in Hong Kong challenging the validity of the change of appointor and the share transfer. In response, the Cayman Islands trustee applied to the Court for *Beddoe*<sup>[6]</sup> relief, including directions as to whether it should submit to the jurisdiction of the Hong Kong Court.

Following the grant of *Beddoe* relief, the trustee gave undertakings to the Court not to take certain steps in relation to the shares. These undertakings had been negotiated and agreed to by all parties, including the widow and her two daughters (the **B Beneficiaries**). Despite this, the B Beneficiaries applied to the Hong Kong Court for the appointment of a receiver over the shares (the **Receivership Application**), in breach of the Court's confidentiality orders. The trustee obtained an injunction and the Receivership Application was subsequently withdrawn. Shortly afterwards, the B Beneficiaries made a second receivership application, this time without breaching the confidentiality orders. The trustee again secured an injunction and the second application was ultimately withdrawn.

The enforcer, supported by another class of beneficiaries (the **A Beneficiaries**), then took the unusual step of seeking an order that the B Beneficiaries personally bear the other parties' costs of the proceedings from the date of the first order, rather than those costs being paid from the trust fund. The Court determined that the B Beneficiaries had sought to usurp its *Beddoe* orders and '*flagrantly breached*'<sup>[7]</sup> its confidentiality orders. As a result, it ordered that the B Beneficiaries' own costs of two hearings should not be paid from the trust fund. However, the Court refused to order the B Beneficiaries to pay the enforcer's and other beneficiaries' costs as it was 'not satisfied the B Beneficiaries' conduct was so disgraceful to warrant such an exceptional order.'<sup>[8]</sup>

The Court's provisional view was that the B Beneficiaries' costs of the two-day costs hearing should also be disallowed but these costs would be determined on the papers. In a separate judgment<sup>[9]</sup> (following the receipt of written submissions), which noted that these costs had exceeded USD1 million, the Court held that it was necessary to consider a without prejudice save as to costs offer (the **Offer**) made by the B Beneficiaries in determining what costs orders should be made. The Court noted the enforcer's position that the Offer appeared acceptable. This, in the Court's view, constituted '*rational*

*encouragement by the Enforcer to compromise litigation,*' which was *'very appropriate'*, given the role conferred on enforcers under Part VIII of the Act.

In circumstances where the A Beneficiaries had ignored the Offer and the enforcer viewed the Offer as reasonable, the Court held that while the enforcer's and the A Beneficiaries' costs should be paid out of the disputed assets of the trust on the indemnity basis, the A Beneficiaries should pay 50 per cent of the B Beneficiaries' costs on the standard basis.

This appears to be the first instance of an enforcer taking what some might consider a robust position in trust litigation. Crucially, however, it demonstrates an enforcer ensuring the proper discharge of its statutory duties. Section 101(2) of the Act provides that an enforcer 'is deemed to have a fiduciary duty to act responsibly with a view to the proper execution of the trust.' One might reasonably conclude that this duty informed the enforcer's decision to take the unorthodox step of seeking adverse costs orders against beneficiaries whose conduct had caused the trust fund to incur significant expense.

## Conclusion

In the author's opinion, these decisions enhance the reputation of STAR trusts and underscore the essential nature of the enforcer's role in the proper administration of STAR trusts. If there were any uncertainty regarding the provisions relating to the enforcer in the Trusts Act, these decisions should put any doubts to rest.

This article by Andrew Peedom entitled 'STAR enforcer' was published in [STEP Journal \(Issue 4, 2025\)](#).

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[1] 'STAR' is an acronym for 'Special Trusts - Alternative Regime', which is now contained in Part VIII of the Trusts Act (2021) Revision.

[2] See ss.100 and 102 Trusts Act which addresses enforcers and their rights and remedies respectively.

[3] (Unreported judgment - Kawaley J – 26 April 2024)

[4] [2001] WTLR 901

[5] This article is not intended to contain a comprehensive summary of the facts.

[6] Re Beddoe [1893] 1 Ch 547

[7] Unreported judgment – Kawaley J - 24 December 2024, at [21].

[8] At [66(b)].

[9] Unreported judgment – Kawaley J – 24 June 2025

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