



LPAs no longer require discretionary investment express provision

BY [REBECCA TOMES](#)
[MARCH 17, 2022](#)
IN [NEWS](#)



Photo by Gabrielle Henderson on Unsplash

The Office of the Public Guardian (OPG) has agreed to change its guidance so that Lasting Powers of Attorneys (LPAs) no longer require discretionary investment express provision.

In light of this, Ann Stanyer, partner at Wedlake Bell, comments:

“For some time, investment managers have had real difficulties in managing the investments of clients where a power of attorney is in place.

We are pleased to confirm that the Office of the Public Guardian (the OPG) is now altering their guidance so that it will no longer be necessary for an express provision for discretionary investment management to be included in a power of attorney.

Since 2015, if a power of attorney did not include a specific investment clause and the client donor had lost mental capacity, investment managers had to turn away clients or require the attorneys to make an application to the Court of Protection for a specific order allowing discretionary investment management.

If the donor had capacity then they could sign a new lasting power of attorney which would include this provision, however, this would be at their own inconvenience and cost.

The OPG has at long last agreed that the delegation of investment management powers by an attorney to an investment manager is legally permissible.

The OPG's guidance will be updated in due course but this confirmation is sufficient for investment managers to accept instructions from an attorney. All investment managers will welcome this news. It is a timely reminder of the importance of lasting powers of attorney and ensuring that clients' documents are kept up to date and reviewed on a regular basis."