

When I trained as a solicitor in the 1970s I understood that I was joining a caring profession. As the son of a general practitioner I already had a strong sense of what caring meant. I have been taking instructions from testators for 50 years and during that time I have listened to the end of life concerns of ageing clients.

While a visit to the solicitor is primarily motivated by the management of material assets and tangible liabilities, until 1996, the matter of care didn't arise. That was an issue preserved for the doctor's surgery and to be determined by the next of kin. In 1996 it all changed with the passing of the Powers of Attorney Act. For the first time the autonomy of the individual was granted legal recognition in the context of care, albeit vicariously. Prior to that the role of the solicitor was to identify the next of kin. Despite this giant leap the Irish justice system continued to lean on Victorian paternalistic principles enshrined in the Lunacy Regulations of 1871 whereby people, who were not regarded as sane, were categorised as either idiots (born that way) or lunatics (acquired dementia). Magnificent asylums were constructed to accommodate these citizens and the rules of wardship were designed to keep them there. That was my life as a caring solicitor until 2023.

This year we have witnessed the implementation of the Assisted Decision Making Capacity Act 2015. Autonomy of the individual is no longer vicarious. It is real. An advance healthcare directive is now an enforceable document. The law permits us to make decisions about how we should be treated in situations where we may not be able to communicate those wishes.

But the law does not allow us to choose how we die. Hospitals for the dying have been replaced with hospices. These are noble institutions managed by palliative professionals. They know how people should die.

Let us consider a society where the member is granted a personal say in the dying process. To avoid the risk of normalisation certain boundaries must be established to ensure that human rights are protected and respected rather than exposed to abuse. The choice of the individual will involve the evaluation of the person's understanding of the relevant legal information; the appreciation of the consequences of the decision; and the appropriate communication of that decision. There is a role here not only for the healthcare professional but also for the solicitor as a guarantee that the decision to carry out the terminal act is truly voluntary and properly informed. The circumstances of the patient/client are relevant to the extent that the quality of the life of the person has diminished to a point that is clinically intolerable within the grounds of that person's determination and that there is no prospect of that quality improving by natural means.

If you the legislators permit me to engage in such a process you will have succeeded in fulfilling for me my function as a caring professional and grant my clients the freedom of choice.