

Task 2

Go to the Non Contentious Probate Rules 1989 and try to set out the procedure in Rule 54 in your own words. Do not be worried by the term, "nuncupative!"

If the will is stored at the firm, the next responsibility is ensuring that it is handed over safely to the personal representative or personal representatives. Beware of giving out information concerning the will when it is not appropriate to do so. Never read the contents out over the telephone and remember that you are unlikely to be aware of any family disputes / rifts and it is essential, therefore, that information or documents are only given to those entitled.

Confidentiality extends after death: The solicitor's duty of confidentiality applies to information about a client's affairs irrespective of the source of the information. It continues despite the end of the retainer or the death of the client when the right to confidentiality passes to the client's personal representatives. See Rule 4, confidentiality and disclosure, and paragraph 5 of the guidance. The duty of confidentiality passes to the personal representatives on death. However, in the case of an administrator, his/her power dates only from the issue of the grant of letters of administration. Where there is a disputed will, you can make a statement concerning its execution available to all parties to the probate.

The will should only be handed over to the personal representative on the production of identification; if the will appoints more than one personal representative then the will should only be handed over when both of them are present. You should apply the same stringent test in identifying these people as you would for money laundering purposes. Indeed, the money laundering regulations apply to the administration of estates where there is property involved.

If you are satisfied about their identity, obtain a signed receipt for the will from the recipient. Mark the firm's records clearly that the will has been removed and ensure that the signed receipt is kept with similar receipts in a separate central file.

2. Taking Instructions After the Death**2.1 The Initial Meeting**

You or the firm may act in the administration of the estate in two capacities: