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PREFACE

Module: FINANCIAL MANAGEMENT

LEARNING OUTCOME

1. WELCOME
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REFLECTION

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LEARNING OUTCOME

After studying this module, you should be able to:

- Administer the trust account in the sheriffs office

1. WELCOME

Welcome to Module 2: Financial management. This guide covers financial management. We trust you will find working through the guide a learning experience that is very interesting and rewarding, and that it will add value, to your studies in particular, but also to your personal life in general.

We believe in the importance of developing a culture of learning and are therefore committed to helping you develop your capacity to perform to the best of your potential and to become not only a successful sheriff, but also an independent life-long learner.

In terms of the autonomy of your learning, the facilitator will expect you to:

- Take personal responsibility and initiative
- Learn within a structured environment
- Critically evaluate your own performance against set criteria
- Identify your own learning needs within defined contexts

2. PURPOSE

The information in this guide reflects the need of the sheriffing community for competencies that will enable the learner to take responsibility for the serving of documents and execution of judgements within the legal framework within which they operate. In addition, it will improve the quality with which sheriffs' duties are exercised and enhance the professional image of the sheriffing community while contributing towards greater confidence in the sheriffs' profession as a core part of the civil justice system.

This course provides learners with opportunities for professional development as law enforcement officers or as sheriffs.

3. DESIGN OF THE MATERIAL

We followed an outcomes-based approach during the design of this module, which means that, after having worked systematically through the module — doing what is required — you will have achieved some very specific learning outcomes determined by the industry of the sheriff.

These learning outcomes have been broken down into smaller chunks that we call assessment criteria. The assessment criteria appear in the introduction of each module or unit. If you focus on achieving these criteria, you will achieve success.

4. SUBJECT CONTENT

The content is divided into various sections.

Once you have worked through all the sections you will be able to:

- Explain how a trust account is set up
- Use receipting, banking and payments from the trust account
- Carry out cross-referencing and day to day reconciliation and annual auditing
- Describe legal obligations in terms of the Sheriffs Act

The sum of the above assessment criteria will be equal to the learning outcome.

The content of this module was put together specifically to guide you through the assessment activities. Do put in the extra effort to consult other sources you will reap the benefits.

5. CRITICAL OUTCOMES

Other crucial outcomes you also have to achieve, are those we refer to as critical outcomes. These are the outcomes that will help you develop as life-long learners in your studies, work and personal lives. The critical outcomes are summarised as follows:

- 5.1 Identifying and solving problems in which responses display that responsible decisions, using critical and creative thinking, have been made during the:
- performance of the duty of service

- utilization of the various manners of service
- 5.2 Working effectively with others as a member of a team or group or organisation or community by:
 - liaising and establishing relationships with stakeholders and community members
- 5.3 Organising and managing oneself and one's activities responsibly and effectively by:
 - following processes, procedures and protocols
- 5.4 Collecting, analysing, organising and critically evaluating information to better understand and explain when:
 - gathering information and undertaking research
 - applying relevant laws
- 5.5 Communicating effectively using visual, mathematical and/or language skills in the modes of oral and/or written persuasion when:
 - Generating documents
 - Communicating with diverse clients
 - Performing administrative duties
- 5.6 Using science and technology effectively and critically, showing responsibility towards the environment and health of others when:
 - sourcing information on legislation, policies and procedures
 - using computers where available
 - distributing and administering reports
- 5.7 Demonstrating an understanding of the world as a set of related systems by recognising that problem-solving contexts do not exist in isolation when:
 - distributing and managing information and reports
 - solving complex problems with a number of actors and factors
 - explaining the relationship between stakeholders and shuffling
 - demonstrating an understanding of cultural diversity in dealing with clients

6. MODULE LAYOUT

Each module comprises the following sections:

- **An introduction**

This serves as an orientation on the particular theme of the module.

- **Assessment activities**

A number of assessment activities appear in each module. These activities were designed for evaluation purposes and form part of the learning and teaching strategy. They will assist you to monitor your own progress in

achieving the stated outcomes.

The assessment activities will help you to:

- focus on the subject matter
- measure whether and/or to what extent learning outcomes and objectives have been achieved
- measure whether and/or to what extent knowledge, skills, values and attitudes are understood and applied
- present ideas and information in an appropriate format
- stimulate your thinking
- summarise the content

- **Content**

Guides you through the prescribed and recommended material for the subject, and gives explanations of specific concepts and terms that are complex.

- **Reflection**

Here a summary or conclusion to each module is provided.

- **References**

A record of all material and sources that were used during the development of the module appears here. Feel free to consult these sources as well as other relevant sources.

You will be required to engage actively with the content of all material and to record the answers to activities.

Each module begins with the learning outcome and ends with conclusion. Remember to also consider the assessment criteria as you work through the module and make sure that you reach these.

8. GRAPHIC ILLUSTRATIONS AND ICONS

Where possible, we have included graphic illustrations, mind maps, tables and diagrams to assist you in your learning. We have also highlighted the meaning of certain concepts through the use of specific symbols called icons. The purpose of these icons is to emphasise and draw your attention to important aspects of the work and to highlight activities. The various icons have the following meaning:



Example: This indicates that an example has been given in the text to help you understand the point made, solve similar problems or clear up uncertainties.



Activity: This icon indicates that you must perform an activity. This will help you to think about a particular aspect of the work and to apply or practice it. Performing the activities will help you monitor your own progress towards achieving the assessment criteria.



Reference: This icon refers to previous or other study material, cases or sources that relate to the content with which you are busy.



Reflection: This icon indicates an opportunity to reflect whether you have achieved the assessment criteria.



Definitions: This icon indicates that an important explanation or formula is being given. Study the definitions carefully and take care to interpret them correctly, as this will help to keep you on the right track.



Take note: Additional notes are given for further clarification.

NB! Please study these icons carefully and make sure you can apply them effectively.

**REFLECTION
POINT TO PONDER**

You might want to write a short essay about your understanding of financial management in the sheriff's profession.

Please do not hesitate to contact your facilitator if you have any problems regarding the content of the subject.

We hope that you will enjoy the challenge of taking an active part in acquiring new skills through this course. Remember one learns best when one enjoys what one is doing.

Most people, looking at a newly-ploughed field, simply see a barren landscape. To a farmer though, this is a sight full of promise. An artist feels the same way about a blank canvas. A musician gets inspired by the silence of an empty hall. What you've got, at the moment, is the perfect space in which to create something.

We wish you success in your studies.

References

1. *South African Board of Sheriffs Learning Guide*. First Edition. Unisa Print Production. Johannesburg. 2003

Module FINANCIAL MANAGEMENT**Learning Outcome**

At the end of this module you should be able to:

- Administer the trust account in the sheriff's office

The assessment criteria for this module include:

- Explaining how a trust account is set up
- Using receipting, banking and payments from the trust account
- Carrying out cross-referencing and day-to-day reconciliation and annual auditing
- Describing legal obligations in terms of the Sheriffs Act 90 of 1986

What learning resources do you need?

- This guide
- Legislation: The Sheriffs Act 90 of 1986
- The Sheriff's Handbook

INTRODUCTION

In ordinary business, it is imperative to have a business accounting system that includes all the necessary business principles with regard to receipting, banking, payments and auditing. The system should be developed to suit the particular needs of the sheriff's office and should be done in conjunction with a competent bookkeeper or auditor. The sheriff is no exception.

A sheriff is appointed in a position of trust, and as such receives vast sums of money that is entrusted to him in the execution of process. He should therefore be able to distinguish between money that is due as fees, and money that belongs to other parties in civil litigation. (The money that belongs to other parties is called "Trust Money".)

The Board for Sheriffs is compelled to discipline sheriffs for mismanagement of funds in terms of the Sheriffs Act 90 of 1986

The Disciplinary Committee of the Board regularly finds that some

sheriffs and/or their staff fail to adhere to the set principles and requirements of the act with regard to trust money. In an attempt to curb this phenomenon, it is important to address this very sensitive issue on dealing with money.

First, you need to understand the difference in categories of money. To do this, join us in the following learning experience.

DIFFERENTIATION: TRUST MONEY vs INCOME



<p>What is income?</p>	<p>The payment that a sheriff gets for services rendered form the basis of his income and is charged in terms of a tariff that can be found in: TABLE “C” PART 11 MAGISTRATE’S COURT ACT 32 of 1944 SUPREME COURT ACT 59 of 1959. All the fees charged should be accounted for in detail in the “return of service” and should be reflected on a monthly statement to each client. Computer software for the profession is readily available and does this automatically. In smaller offices that do not have such a system a manual system should be devised to suit the individual need of such smaller office.</p> <p>The income of the sheriff is derived from fees charged and paid to the sheriff by clients such as attorneys and should be accounted for in a business account.</p> <p>It is therefore clear that “trust money“ never forms part of the income of a sheriff and should therefore be dealt with as prescribed by the Sheriffs Act 90 OF 1986.</p>
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<p>What is “trust money”?</p>	<p>Trust money is the amount of the claim/judgement that is allowed by the courts in any civil litigation. Trust money can be in the form of money received on writs of execution, proceeds of sales in execution in terms of the above-mentioned judgements</p> <p>This money is collected or paid to the sheriff by the defendants on the assumption that the sheriff should deal with it according to the requirements set out by the law.</p>
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	The sheriff is trusted as official of the court and the money so received is protected by the Fidelity Fund for Sheriffs and is administered by the Board for Sheriffs.
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ACTIVITY 1

Look up sections 22 and 33 of the Sheriffs Act 90 of 1986 and give a short summary of what you have found.

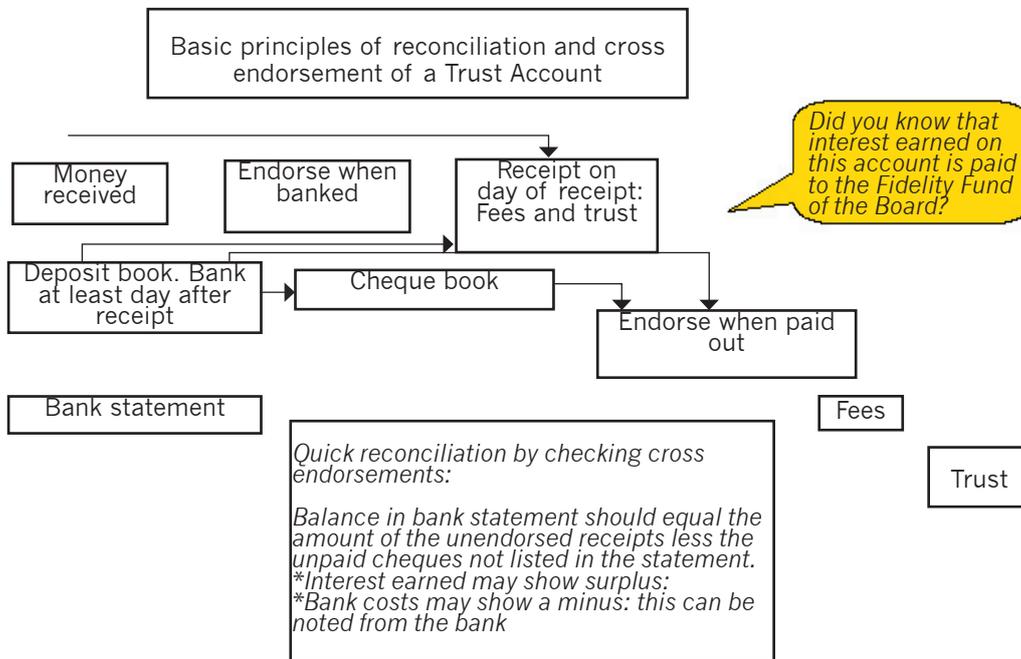
A large rounded rectangular box with a grey gradient header and horizontal lines for writing a summary.



ACTIVITY 2

Take a critical look at the orgonagram below and give a brief explanation of your understanding thereof.

TRUST ACCOUNTING



The above flow chart represents a simple, but effective way to cross check any trust account that can be used in smaller offices.



ACTIVITY 3

In groups of five, practice the fundamental principles of cross-referencing by drawing a monthly reconciliation from the bookkeeping information supplied.

Include copies of receipts issued, bank deposit slips, cheques issued and bank statements for a specified period as basic information to work from.

COMPUTER PROGRAMS

The bookkeeping programs of computer systems can effectively do this. It is, however, a handy cross-referencing mechanism for any smaller sheriff's office.

In the previous activity you conducted a study of the Sheriffs Act 90 of 1986 on this issue. Let us summarise what the Act requires.

STATUTORY REQUIREMENTS

The selfsame bookkeeping principles that apply to ordinary business accounts are applicable in dealing with a trust account. Section 22(1) of the Sheriffs Act is very clear and inter alia requires:

- Every sheriff to open and keep a separate trust account
- The account to contain a reference to the section, with a banking institution
- The sheriff to deposit therein forthwith all the monies held received by him on account of any person

It is further stipulated that in terms of section 33(1) of the Act that this account be audited once a year for the purposes of obtaining a Fidelity Fund Certificate.



ACTIVITY 4

Group work:

- Divide into groups of five, consult the Sheriffs Act 90 of 1986 and give a summary of sections 22 and 33 with regard to trust accounts. Each group must report their findings.

ANNUAL AUDITING

Subsection (2) of the section inter alia requires the following:

- An auditor who has performed an audit in terms of subsection (1)(b) shall as soon as possible after completion of the audit furnish the board with a report on his findings on the prescribed form (Form 7) (Regulation 9).

It is therefore clearly the intention of the Act that trust money received may only be deposited into the trust account established for that purpose.



Do you have any idea why this strict control is needed?



ACTIVITY 5

Give a short summary on your views on why you think it is necessary to control and audit trust accounts.

It is further required of a sheriff to pay out any money so received without any avoidable delay.



Reflection: Can you understand why it is necessary to have strict control mechanisms in place over this money?



NB! The activities that follow comprises various scenarios designed to help you implement and master the financial calculations concerned with payments to the sheriff that relate to trust monies and fees.



ACTIVITY 6

SCENARIO

Sheriff X executes a Writ of Execution and the defendant pays the amount of R 52,000.00 claimed together with his charges of R540.00. A total amount of R52, 540.00 is paid in cash to the sheriff. The sheriff fails to endorse the writ or issue a receipt.

The sheriff, who is experiencing a cash flow problem, pays the amount into his business account that is already overdrawn by R60, 000.00.

He has no intention to keep the money, but secretly decides to use the money to ease the burden of his cash flow problem. He delays the overpayment to the execution creditor with all sorts of delaying tactics.

Due to various problems, the bank calls in the overdraft facility and leaves the sheriff with no money left in his business account.

The execution creditor and lawyers demand immediate payment from the sheriff. The sheriff fails to pay, due to his problem.

The Board for Sheriffs is contacted with a complaint.



In a group discussion, using the information gathered when dealing with sections 22 and 33, discuss the scenario and give your views on:

- The legality of the sheriff's actions
- The implications of such actions
- The steps that should be taken by the Board

To fully understand the splitting of money received and how to deal with payments to sheriffs that include trust money and fees, let's proceed to the next activity:



ACTIVITY 7

- The sheriff conducts a sale in execution of a fixed property. The property is sold for a purchase price of R300, 000.00.
- In terms of the conditions of sale the purchaser is required to pay a 10% deposit and pay the sheriff's commission of 5% on the first R30, 000.00 and thereafter 3% to a maximum of R7 000.00.
- The total amount payable to the sheriff for commission is R7 000.00 plus VAT at 14 % = R980.00 totalling to R 7,980.00. The deposit amounts to R30, 000.00.
- The purchaser issues the sheriff with a combined cheque for the amount of R37, 980.00.

Taking the provisions of section 22 into account apply your bookkeeping skills and explain how the sheriff should deal with this cheque. (Please note that the deposit paid remains in the sheriff's trust account until transfer is given at a later stage.)

A large rounded rectangular box with a gradient header (dark to light) and ten horizontal lines for writing. The box is empty and intended for notes.

A second large rounded rectangular box, identical to the first, with a gradient header and ten horizontal lines for writing. It is also empty and intended for notes.



Note: The purpose of this exercise is not to determine the correctness of the sale, but to establish the correct procedure to split the amounts of money received as trust and fees.

The handling of “trust money” is a very sensitive area. Many people who do not have the self-control or correct attitude find themselves under the temptation to misappropriate such money. This is a sure recipe for disaster and possible criminal prosecution.

The Board has a very clear disciplinary task and will not hesitate to prosecute and discipline those found with “fingers in the till”.



ACTIVITY 8

Role-play a scenario where a volunteer sheriff visits the bank to set up the trust account. The sheriff must instruct the bank on the issues as required by the Act.

Take the exercise further by arranging for the printing of receipt books, cheque books and bank books.

The volunteer sheriff must then proceed by training and instructing the newly appointed staff to correctly deal with the trust accounting system.

BUSINESS ACCOUNT

The financial system in the office of a sheriff should be geared to distinguish effectively between these categories of money received to ensure that it is accounted for in the correct accounts.

Monies received for services rendered should be clearly distinguished from trust money. The accounting principles to suite the particular need of the office should be implemented.

WHAT IS REQUIRED OF A SHERIFF IN SETTING UP A SHERIFF'S OFFICE?

- i] **Respond to the following infrastructural needs by:**
- Arranging finance
 - Finding and hiring suitable storage facilities and office accommodation

- Hiring and training competent staff
 - Arranging for the installation of telephone and fax facilities and purchase electronic equipment such as computers, printers, printing paper, suitable software and photo-copier
 - Arranging for postal delivery and a post box address
 - Appointing and training suitable deputies [Section 5 Sheriffs Act]
 - Acquiring transport i.e. removal truck, general transport
 - Purchasing law books such as Magistrate's Courts Act, High Court Act, Sheriff's Handbook, Insolvency Act, Maintenance Act, and Family Violence Act
- ii] Respond to the following administrative needs by:**
- Arranging Insurance for office, stores, vehicles and professional insurance required in terms of the Sheriffs Act
 - Applying for Fidelity Fund Certificate from the Board for Sheriffs
- iii] Register with:**
- The Receiver of Revenue as Employer, Provisional Tax Payer, VAT vendor for Office Income as well as for Auctions
 - The Unemployment Insurance Commissioner
 - Workman's Compensation Commissioner
 - Regional Services Council for Payment of Levy
 - The Skills Development Commissioner
- iv] Open the following bank accounts:**
- Business Account
 - Trust Account in terms of the Sheriffs Act [Section 22]



NOTE: The cash flow of the sheriff's enterprise is equally important to the proper running of the trust account. The sheriff should therefore ensure that everything is done to collect the fees charged in order to run a healthy economically viable office.

To be able to facilitate the above the sheriff must be able to generate monthly statements as listed below.

GENERATING MONTHLY STATEMENTS

When generating monthly statements the following should be adhered to:

- This procedure should be conducted every end of the month.
- The statements should reflect all services done during the past month indicating a total amount that is owed to the sheriff by a particular client.
- Computer programmes automatically generate these accounts at month end.
- These accounts are posted to each client for payment.
- Regular checks should be conducted to ensure that accounts are paid.
- Accounts remaining unpaid need specialised attention by competent staff and ultimately need to be followed by legal action.
- The sheriff will develop cash flow problems if the above is not scrutinised regularly.

PAYMENT OF ACCOUNTS BY CLIENTS

The following activity will help you to develop measures that could be applied to identify and rectify possible problems relating to the non-payment of sheriff's fees.



ACTIVITY 9

In groups of five discuss the possibility of non-payment of the sheriff's fees with particular attention given to the result of non-payment. Suggest special measures that should be applied to avoid the problem.

A B C OF TRUST MONEY



ACTIVITY 10

A:
ENDORSE THE WARRANT OF EXECUTION
RECEIVED THE AMOUNT OF R457.98 FROM: MR. M N MTOMBIWA

.....
SIGN: A MAKWETU
SHERIFF LADY FRERE

.....
MR. M N MTOMBIWA

NO EXCEPTION MUST BE MADE: THE RULES PROVIDE FOR THIS ACTION

B:

ALWAYS ISSUE A RECEIPT FOR MONEY RECEIVED:

RECEIPT BOOK: TRUST ACCOUNT: SHERIFF FOR _____

CASE NR: _____ / _____ DATE : _____ / _____
 ___ / ___

IN THE MATTER : _____ V/S _____

ATTORNEYS: _____

THE AMOUNT OF:

FESS		
TRUST		
TOTAL		

RECEIVED BY: SIGN: _____

C:

ENTER AMOUNT OF RECEIPT INTO BANK DEPOSIT PAGE AND BANK IN TRUST ACCOUNT AT LEAST THE DAY AFTER RECEIPT

ABSA BANK LADY FRERE			
1	CASH	RECEIPT NR 1	457 98
	TOTAL		457 98

ENTER RECEIPT NUMBER AND DEPOSIT ONTO YOUR TRUST RECONCILIATION SHEET / BOOK
 [CROSS REFERENCE]

E:

CROSS OUT THE PAYMENT ON THE RECEIPT BOOK WITH A RED PEN QUOTING CHEQUE NUMBERS AND AMOUNTS PAID OUT [CROSS REFERENCE]

F:

NOW ENTER PAYMENT INTO YOUR RECONCILIATION SHEET/BOOK

THE ABOVE SYSTEM WILL ALLOW A FULL CROSS REFERENCE OF ALL PAYMENTS RECEIVED AND CHEQUES ISSUED, AND WILL ENABLE YOU TO BALANCE/RECONCILE YOUR TRUST ACCOUNT ON A REGULAR BASIS

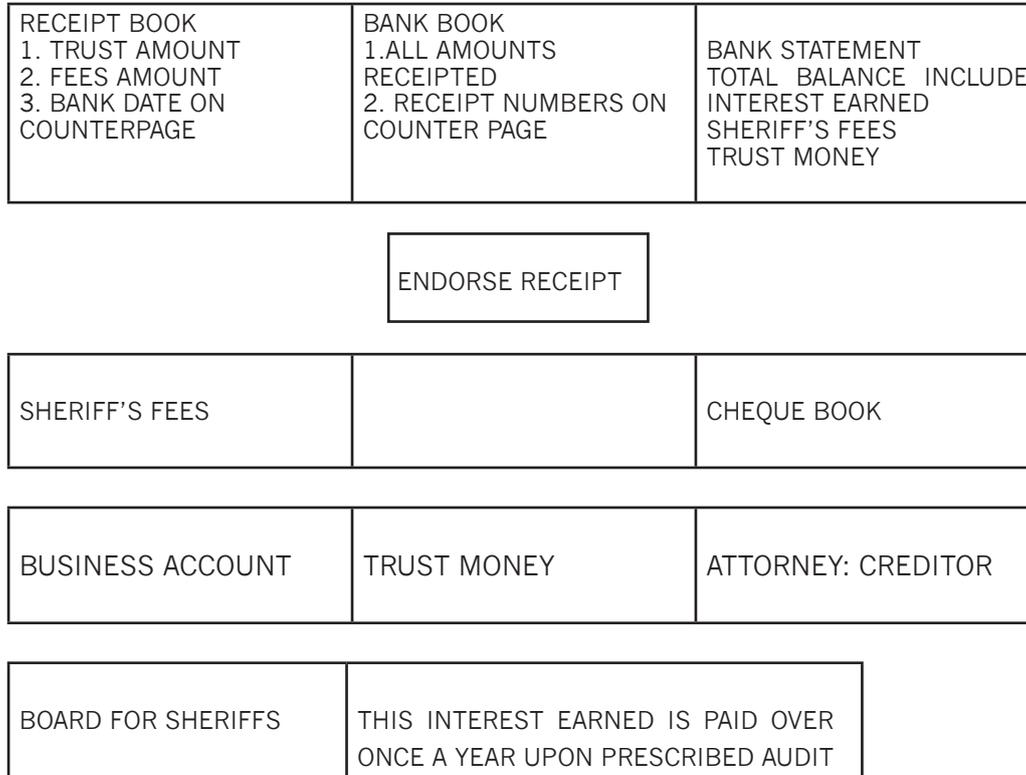
G:

REQUIRE THAT YOUR BANK RENDER YOU WITH A MONTHLY STATEMENT OF YOUR TRUST CHEQUE ACCOUNT.

UPON RECEIPT OF THE MONTHLY STATEMENT ENTER ALL INTEREST RECEIVED ONTO YOUR RECONCILIATION SHEET/BOOK THIS WILL THEN ENABLE YOU TO SHOW INTEREST EARNED AT A GLANCE.

TRUST ACCOUNT: GUIDELINES

FLOW CHART FOR EASY CROSS REFERENCE



EASY CHECK METHOD [AT LEAST ON A WEEKLY BASIS]

1. CALCULATE THE TOTAL AMOUNT OF THE RECEIPTS **NOT CROSSED OUT**
2. CROSS CHECK CHEQUE S ALREADY ISSUED WITH THE LAST BANK STATEMENT FOR PAYMENT AND TOTAL **THOSE NOT REFLECTED ON THE STATEMENT**

THE TOTAL AMOUNT OF THE OUTSTANDING [NOT CROSSED OUT] RECEIPTS ISSUED TOGETHER WITH THE INTEREST EARNED AND ADDED TO THE STATEMENT IN THAT **PERIOD SHOULD EQUAL** THE STATEMENT BALANCE LESS THE UNPAID CHEQUES NOT **REFLECTED ON** THE BANK STATEMENT

CONCLUSION

Well done, you have reached the end of this module and should now be able to administer the trust account in the sheriff's office. Are you able to explain how a trust account is set up and maintained in terms of the Sheriffs Act 90 of 1986? If you are not confident, speak to your facilitator and address problematic areas of the subject with him or her.

We wish you succes in your studies.