

HOW TO CONDUCT AN ENQUIRY (Part 5) HEARSAY EVIDENCE

What is it?

It is evidence, oral/written, the probative value of which depends on the credibility of the person who said/wrote it.

• What must a chairperson take into consideration?

- The fact that the onus of proof is on a balance of probabilities;
- Assess the nature of the evidence:
 - the motive behind the statement;
 - the length of time between the commission or omission to act and the making of the statement;
 - The degree of detail in the statement.
- The **purpose** of the evidence iow does it assisting in closing the gaps?
- The **probative value** of the evidence iow is it relevant?
- Why can the person not give evidence in person? (remember its not hearsay if the person testifies at a later stage)
- The **prejudice** to the other party as the evidence will be unchallenged.

• What to do after you take the above into consideration?

- Ask both parties if they agree for the **hearsay evidence** to be led.
- You can provisionally agree to accept the evidence and leave it out of your consideration if the person does not testify.