



Guide to the Reasonable Offer Process

What is the reasonable offer process?

The Human Rights Code allows a Respondent to ask the Executive Director to review a settlement offer that has been rejected by the Complainant to see if it reasonably resolves the complaint. The Executive Director will consider whether the settlement offer is similar to the remedies that an adjudicator would award if the complaint was proven to be true at a hearing. If the settlement offer is reasonable, the Complainant will have one final opportunity to accept the offer. If the Complainant does not accept a reasonable offer, the Executive Director must terminate the complaint process and close the file.

Why does the reasonable offer process exist?

The purpose of the reasonable offer process is to avoid having a complaint proceed to a hearing in cases where the Respondent has demonstrated that they are willing to remedy the complaint. The Manitoba Human Rights Commission encourages parties to settle complaints where possible as hearings are often costly, time consuming and difficult for all parties involved.

When can the Respondent ask the Executive Director to review its offer?

The Respondent can only ask the Executive Director to review its settlement offer after the offer has been rejected by the Complainant. At that point, there are no further negotiations between the parties and the mediator has closed the mediation. The Respondent will usually ask the Executive Director to do this at a later stage in the complaint process (i.e. after the Executive Director has decided that there is enough evidence of discrimination and before an adjudicator is requested to make a final decision about the complaint).

What information does the Executive Director review?

The Executive Director will review:

- the Respondent's settlement offer;
- the Complainant's submission as to why the offer is not reasonable;
- the complaint;
- the reply to the complaint, if one has been provided;
- the investigation report, if one has been completed; and
- any submissions in response to the investigation report.

The Executive Director may also rely upon decisions from the Manitoba Human Rights Adjudication Panel or other human rights tribunals in determining whether the offer is reasonable.

Does the Executive Director advise what would make the offer reasonable?

Generally, the Executive Director will only make a decision about whether the settlement offer is reasonable or not. The Executive Director will provide reasons when they find an offer to be unreasonable (for example, not enough compensation for injury to dignity, feelings and self-respect given past decisions of human rights tribunals or the evidence of discrimination in the investigation report).

If the Executive Director thinks the offer is reasonable, can the Complainant still accept it?

If the Executive Director decides that the offer is reasonable, the Complainant will have one more opportunity to accept that offer before the file is closed.

Does the Commission assist the parties in this process?

A Commission mediator will make sure that the Respondent's offer is clearly outlined and will encourage the Respondent to make sure that it cover all of the different types of remedial options available in *The Code*. The mediator will confirm when the Complainant has rejected an offer and will give the Complainant the opportunity to explain in writing why the offer is not reasonable.

Is the reasonable offer process optional?

If a settlement offer is rejected by the Complainant, it is the Respondent's choice as to whether they seek a reasonable offer assessment. If they do not choose to seek a reasonable offer assessment, the complaint will move to the next stage in the complaint process. The Complainant cannot opt out if the Respondent chooses to have the offer assessed for reasonableness.