



**DEALING WITH
UNREASONABLE
CUSTOMER CONDUCT
POLICY
P3.0106.1**

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DEALING WITH UNREASONABLE CUSTOMER CONDUCT

DIVISION: Customer and Corporate Strategy

BRANCH: Corporate Performance and Customer Service

CATEGORY: 2

PART 1 - INTRODUCTION

1. BACKGROUND

- 1.1 Camden Council is committed to providing excellent customer service.
- 1.2 This includes a commitment to being accessible and responsive to our customers and ensuring that all interactions are fair, equitable and consistent.
- 1.3 It is recognised however that in a very small number of cases, some customers behave in ways that are inappropriate and unacceptable despite our best efforts to help them.
- 1.4 This policy has also been developed to assist employees of Camden Council in managing customers who display unreasonable behaviours in their interactions with Council.
- 1.5 Council has a zero-tolerance policy towards any harm, abuse or threats directed towards Council staff or officials. Any conduct of this kind will be dealt with under this policy and in accordance with our duty of care and work health and safety responsibilities.
- 1.6 This policy should be read in conjunction with Council's Feedback Policy and is based on the NSW Ombudsman's Unreasonable Complainant Conduct Guidelines and Model Policy (May 2013).

2. OBJECTIVE

- 2.1 This policy aims to:
 - ensure that customers are treated fairly and equitably;
 - provide guidance for Council employees in communicating with unreasonable customers and ensure they feel confident and supported in taking appropriate action to manage unreasonable customer conduct;
 - assist Council to implement and consistently apply unreasonable customer conduct strategies;
 - ensure that Council employees and customers are aware of the processes that are to be followed to report and record unreasonable customer conduct; and
 - provide, as far as is reasonably practicable, a safe working environment for Council employees.

3. SCOPE

- 3.1 This policy applies to all employees of Council, persons carrying out work on behalf of the Council, including contractors and volunteers, and Councillors.

4. DEFINITIONS

4.1 Unreasonable Customer Conduct means any behaviour by a customer which, because of its nature or frequency raises substantial health, safety, resource or equity issues for Council Officials, other service users and customers or the customer himself/herself. Unreasonable customer conduct is grouped into five categories of conduct:

- Unreasonable persistence;
- Unreasonable demands;
- Unreasonable lack of cooperation;
- Unreasonable arguments; and
- Unreasonable behaviour.

Unreasonable Customer Conduct refers to any behaviour by a customer which, because of its nature or frequency raises substantial health, safety, resource or equity issues for Council Officials, other service users and customers or the customer himself/herself.

4.2 Unreasonable persistence means continued, incessant and unrelenting conduct by a customer that has a disproportionate and unreasonable impact on Council Officials, services, time and/or resources.

Some examples of unreasonably persistent behaviour include:

- An unwillingness or inability to accept reasonable and logical explanations including final decisions that have been comprehensively considered and dealt with;
- Pursuing and exhausting all available review options when it is not warranted and refusing to accept further action cannot or will not be taken on their complaints;
- Reframing a complaint in an effort to get it taken up again;
- Bombarding with phone calls, visits, letters, emails (including cc'd correspondence) after repeatedly being asked not to do so;
- Consistently contacting different people within Council and/or externally to get a different outcome or more sympathetic response to their complaint.

4.3 Unreasonable demands means any demands (express or implied) that are made by a customer that have a disproportionate and unreasonable impact on Council Officials, time and/or resources.

Some examples of unreasonable demands include:

- Issuing instructions and making demands about how Council have/should handle their complaint, the priority it was/should be given, or the outcome that was/should be achieved;
- Insisting on talking to a Manager or the General Manager personally when it is not appropriate or warranted;
- Emotional blackmail and manipulation with the intention to guilt, intimidate, harass, shame, seduce or portray themselves as being victimised – when this is not the case;
- Insisting on outcomes that are not possible or appropriate in the circumstances – e.g. for someone to be sacked or prosecuted, an apology and/or compensation when no reasonable basis for expecting this; and

- Demanding services that are of a nature or scale that Council cannot provide when this has been explained to them repeatedly.

4.4 Unreasonable lack of cooperation means an unwillingness and/or inability by a customer to cooperate with the organisation, Council Official or feedback system and processes that result in a disproportionate and unreasonable use of Council services, time, resources and may prevent Council actioning the matter further.

Some examples of unreasonable lack of cooperation include:

- Sending a constant stream of comprehensive and/or disorganised information without clearly defining any issues of complaint or explaining how they relate to the core issues being complained about, only where the customer is clearly capable of doing this;
- Providing little or no detail with a complaint or presenting information in “drips and drabs”;
- Refusing to follow or accept Council’s instructions, suggestions or advice without a clear or justifiable reason for doing so;
- Arguing frequently and/or with extreme intensity that a particular solution is the correct one in the face of valid contrary arguments and explanations; and
- Displaying unhelpful behaviour – such as withholding information, acting dishonestly, misquoting others and so forth.

4.5 Unreasonable arguments means arguments, that are incomprehensible, false or inflammatory not supported by evidence, trivial or delirious and that disproportionately and unreasonably impact upon Council Officials, services, time, and/or resources.

Arguments are unreasonable where they:

- Fail to follow a logical sequence;
- Are not supported by any evidence and/or based on conspiracy theories;
- Lead a customer to reject all other valid and contrary arguments;
- Are trivial when compared to the amount of time, resources and attention that the customer demands; and
- Are false, inflammatory or defamatory.

4.6 Unreasonable behaviour means conduct that is unreasonable in all circumstances, regardless of how stressed, angry or frustrated that a customer is, because it unreasonably compromises the health, safety and security of Council Officials or other service users or the customer.

Some examples of unreasonable behaviours include:

- Acts of aggression, verbal abuse, derogatory, racist, or defamatory remarks;
- Discrimination on the grounds of age, disability, race, sex, intersex status, gender identity, sexual orientation and any other areas as identified in the *NSW Anti-Discrimination Act 1977*;
- Harassment, intimidation or physical violence;
- Rude, confronting and threatening correspondence;
- Threats of harm to self, employees or third parties, threats with a weapon or threats to damage property including bomb threats;
- Stalking (in person or online); and
- Emotional manipulation.

It should be noted that where threats of harm to self, employees or third parties are made, threats with a weapon or threats to damage property including bomb threats are made, immediate action will be taken in accordance with Council's Emergency Response Policy and Emergency Procedures Guide. This may see Council contact emergency services immediately to advise of the threat.

5. ROLES & RESPONSIBILITIES

Employees

- 5.1 All employees or persons carrying out work on behalf of Council, including contractors and volunteers, and Councillors are responsible for familiarising themselves with this policy and any related guidelines or procedures.
- 5.2 All employees are responsible for recording and reporting all incidents of unreasonable customer conduct they experience or witness within one (1) day of the incident occurring.
- 5.3 Incidents should be reported to the relevant supervisor.

The General Manager & Executive Leadership Group

- 5.4 The General Manager, in consultation with the relevant staff member, supervisor, Director and the Complaints Coordinator, has the responsibility and authority to change or restrict a complainant's access to our services in the circumstances identified in this policy.
- 5.5 It is recognised that there may be instances where the matter needs to be referred to Council's Executive Leadership Group for consideration and decision making. This is at the discretion of the General Manager to determine.

Incidents of unreasonable customer conduct must be recorded and reported within one (1) day of the incident occurring to the relevant supervisor and/or Complaints Coordinator.

5.6 The General Manager may delegate administrative aspects of dealing with unreasonable customer conduct under this policy to the Complaints Coordinator.

Complaints Coordinator

5.7 The Complaints Coordinator is responsible for recording, monitoring, reporting and reviewing of all cases where this policy is applied to ensure consistency, transparently and accountability. This includes managing and keeping a file record of all cases and an Unreasonable Customer Conduct Register in Council's Electronic Document Management System (EDMS).

Supervisors, Senior Managers & Directors

- 5.8 Supervisors, Senior Managers and Directors are responsible for supporting staff to apply this policy and any related guidelines or procedures and to ensure compliance with the processes and procedures identified.

- 5.9 In accordance with Council's Work Health & Safety Policy, Supervisors, Senior Managers and Directors are responsible for ensuring the appropriate health and safety risk management processes to eliminate risk and reduce hazards are in place.
- 5.10 Following an unreasonable customer conduct incident, the relevant Supervisor, Manager and/or /Director is responsible for providing affected employees with the opportunity for support through Council's Employee Assistance Program (EAPs) and to debrief either formally or informally, as necessary.

PART 2 - POLICY STATEMENT

6. HOW UNREASONABLE CUSTOMER CONDUCT WILL BE MANAGED

- 6.1 Unreasonable customer conduct will generally be managed by limiting or adapting the ways that we interact with and/or deliver services by restricting:

Who they have contact with - limiting the customer to a sole contact point/ member within the organisation;

What they raise with us - restricting the subject matter that will be considered and responded to;

When they can have contact - limiting a customer's contact with the organisation to a particular time, day, or time limit or curbing the frequency of their contact with the organisation;

Where they can make contact - limiting the locations where face-to-face interviews are held to secured venues, facilities or rooms or in areas of the office which are highly accessible and visible to other members or security guards;

How they can make contact - limiting or modifying how the customer can contact our office. This can include modifying or limiting face-to-face interviews, telephone and written communications, prohibiting access to our premises, contact through a representative only, taking no further action or terminating services all together.

Unreasonable customer conduct will be managed by limiting or adapting the ways that Council interact with and/or deliver services by restricting:

- **Who the customer has contact with**
- **What they can contact Council about**
- **When & where they can contact Council**

Alternatively, a customer's access to Council services may be terminated.

Who – Limiting the Customer to a Sole Contact Point

- 6.2 Where a customer tries to forum shop internally within our organisation, changes their issues of complaint repeatedly, reframes their complaint, or raises an excessive number of complaints it may be appropriate to restrict their access to a single staff member (a sole contact point) who will exclusively manage their interactions with Council. This may ensure they are dealt with consistently and may minimise the chances for misunderstandings, contradictions and manipulation.

- 6.3 The contact officer's supervisor will provide them with regular support and guidance as needed. The Complaints Coordinator will also review the arrangement every six months to ensure that the officer is managing/coping with the arrangement.
- 6.4 Customers who are restricted to a sole contact person will also be given the contact details of one additional staff member who they can contact if their primary contact is unavailable, such as during periods of extended leave.

What – Restricting the Subject Matter of Communications We Will Consider

- 6.5 Where customers repeatedly send written communications, letters, emails, or online forms that raise trivial or insignificant issues, contain inappropriate or abusive content or relate to a matter that has already been comprehensively considered and/or reviewed (at least once), Council may restrict the issues/subject matter the complainant can raise with us/we will respond to.
- 6.6 For example, Council may:
- refuse to respond to correspondence that raises an issue that has already been dealt with comprehensively, that raises a trivial issue, or is not supported by clear/any evidence. The customer will be advised that future correspondence of this kind will be read and filed without acknowledgement unless we decide that we need to pursue it further.
 - restrict the customer to one complaint/issue per month. Any attempts to circumvent this restriction, for example by raising multiple complaints/issues in the one complaint letter may result in modifications or further restrictions being placed on their access.
 - return correspondence to the customer and require them to remove any inappropriate content before we will agree to consider its contents. A copy of the inappropriate correspondence will also be made and kept for our records to identify repeat/further incidents.

When – Limiting When, Where & How a Complainant Can Contact Us

- 6.7 If a customer's telephone, written or face-to-face contact with Council places an unreasonable demand on our time or resources because it is overly lengthy (eg disorganised and voluminous correspondence) or affects the health, safety and security of our staff because it involves behaviour that is persistently rude, threatening, abusive or aggressive, we may limit when and/or how the customer can interact with Council.
- 6.8 This may include:
- limiting their telephone calls or face-to-face interviews to a particular time of the day or days of the week;
 - limiting the length or duration of telephone calls, written correspondence or face to face interviews;
 - limiting the frequency of their telephone calls, written correspondence or face to face interviews;
 - restricting their ability to attend Council premises to specified times of the day and/or days of the week only – for example, when additional security is available or to times/days that are less busy;

- allowing them to attend our office on an 'appointment only' basis and only with specified staff. Note – during these meetings staff should always seek support and assistance of a colleague for added safety and security; and
- banning the customer from attending our premises altogether and allowing some other form of contact – eg 'writing only' or 'telephone only' contact.

6.9 In cases where we cannot completely restrict our contact with a complainant and their conduct is particularly difficult to manage, we may also restrict their contact to contact through a support person or representative only. The support person may be nominated by the complainant but must be approved by the General Manager.

Terminating Access to our Services

6.10 In rare cases, and as a last resort when all other strategies have been considered and/or attempted, the General Manager (or the Executive Leadership Group in instances referred to them for consideration) may decide that it is necessary for Council to completely restrict a customer's contact/access to our services.

6.11 A decision to have no further contact with a customer will only be made if it appears that the customer has not modified their conduct and/or their conduct poses a significant risk for our staff or other parties because it involves one or more of the following types of conduct:

- acts of aggression, verbal and/or physical abuse, threats of harm, harassment, intimidation, stalking, assault;
- damage to property while on our premises;
- threats with a weapon or common office items that can be used to harm another person or themselves;
- physically preventing a staff member from moving around freely either within their office or during an off-site visit – eg entrapping them in their home; or
- conduct that is otherwise unlawful.

6.12 In these cases, the customer will be sent a letter notifying them that their access has been restricted as outlined below.

6.13 A customer's access to our services and our premises may also be restricted (directly or indirectly) using legal mechanisms such as trespass laws/legislation or legal orders to protect Council employees from personal violence, intimidation or stalking by a customer.

7. ALTERNATIVE DISPUTE RESOLUTION

7.1 If the General Manager (or the Executive Leadership Group in instances referred to them for consideration) determine that Council cannot terminate our services to a complainant in a particular case or that we/our employee/s bear some responsibility for causing or exacerbating their conduct, they may consider using alternative dispute resolution strategies such as mediation and conciliation to resolve the conflict with the customer and attempt to rebuild our relationship with them.

7.2 If using alternative dispute resolution is considered to be an appropriate option it will be conducted by a suitably qualified independent third party to ensure transparency and impartiality.

7.3 Each case will be assessed on its own facts to determine the appropriateness of this approach.

8. PROCEDURE TO BE FOLLOWED WHEN CHANGING OR RESTRICTING A COMPLAINANT'S ACCESS TO COUNCIL SERVICES

Investigation, Reporting & Decision Making

8.1 When the Complaints Coordinator receives notification of an unreasonable customer conduct incident, they will contact the employee concerned to discuss the incident within ten (10) working days.

8.2 They will discuss:

- the circumstances that gave rise to the incident;
- the impact of the customer's conduct on Council, relevant staff, time and resources;
- the customer's responsiveness to the employee's warnings/request to stop the behaviour;
- the actions the employee has taken to manage the customer's conduct; and
- the suggestions made by relevant staff (including the employee's supervisor) on ways that the situation could be managed.

8.3 Following consultation with relevant employees, the Complaints Coordinator will search Council's EDMS and Unreasonable Customer Conduct Register for information about the customer's prior conduct and history with Council.

8.4 In considering the incident, the Complaints Coordinator will consider:

- whether conduct in question involved overt anger, aggression, violence or assault or threats of a similar nature (which is unacceptable in all circumstances);
- whether the customer's case has merit;
- the likelihood of the customer modifying their unreasonable conduct if they are given a formal warning about their conduct;
- whether changing or restricting access to Council services would:
 - be effective in managing the customer's behaviour;
 - affect the customer's ability to meet their obligations, such as reporting obligations; and
 - have an undue impact on the customer's welfare, livelihood or dependents;
- whether the customer's personal circumstances may have contributed to the behaviour, for example the customer is a vulnerable person who is under significant stress as a result of one or more of the following:
 - homelessness;
 - physical disability;
 - illiteracy or other language or communication barrier;
 - mental or other illness;
 - personal crises; and
 - substance or alcohol abuse, etc;
- whether the customer's response/conduct in the circumstances was moderately disproportionate, grossly disproportionate or not at all disproportionate; and

- whether there are any statutory provisions that would limit the types of limitations that can be put on the customer's contact/access to services.
- 8.5 Once the Complaints Coordinator has considered these factors, a report will be prepared and provided to the General Manager to consider, outlining the investigations undertaken, whether the customer conduct is considered unreasonable and providing a recommendation on an appropriate course of action. This may include formal or informal options for dealing with the unreasonable customer conduct which may include one or more strategies outlined in this policy and/or related guidelines and procedures.
- 8.6 The General Manager may resolve to refer the matter to Council's Executive Leadership Group for consideration and determination.

Warning Letter

- 8.7 Unless the customer's conduct poses a risk to the health and safety of staff or other third parties, the General Manager (or the Executive Leadership Group in instances referred to them for consideration) may resolve to, in the first instance, provide them with a written warning about their conduct.
- 8.8 The warning letter will:
- specify the date, time, location of the unreasonable conduct incident;
 - explain why the customer's conduct is inappropriate;
 - list the types of access changes and/or restrictions that may be imposed if the behaviour continues;
 - provide clear and full reasons for the warning being given;
 - detail standards of behaviour by the customer acceptable to Council;
 - provide the name and phone number of the employee they can contact about the letter; and
 - be signed by the General Manager, or his/her delegate.
- 8.9 Regular updates should be provided to the relevant employee throughout the process to advise on progress of the matter.

Notification Letter

- 8.10 If the customer's conduct continues after they have been given a written warning, or in extreme cases of overt anger, aggression, violence, assault or other unlawful/unacceptable conduct, the General Manager (or the Executive Leadership Group in instances referred to them for consideration) has the discretion to send a notification letter immediately restricting the customer's access to Council services (without prior written warning).
- 8.11 The notification letter will:
- specify the date, time, location of the unreasonable conduct incident/s;
 - explain why the customer's conduct is inappropriate;
 - identify the change and/or restriction that will be imposed and what it means for the customer;
 - provide clear and full reasons for this restriction;
 - specify the duration of the change or restriction imposed, which will not exceed 12 months;

- indicate a time period for review;
- provide the name and phone number of the employee (a Senior Manager) they can contact about the letter; and
- be signed by the General Manager, or his/her delegate.

Notification to Employee About Access Changes/Restrictions

- 8.12 The Complaints Coordinator will notify relevant employees about any decisions to change or restrict a customer's access to our services. This may include notifying the Customer Relations team and security staff in cases where a customer is prohibited from entering Council premises.
- 8.13 The Complaints Coordinator will also update the Unreasonable Customer Conduct Register and EDMS with records outlining the nature of the restrictions imposed and their duration.

Monitoring

- 8.14 Once a customer has been issued with a warning letter or notification letter the Complaints Coordinator will review the customer's records not more than 12 months after the service change or restriction, on request by an employee or following any further unreasonable customer conduct incidents that involve the customer to ensure that they are complying with their restrictions/the arrangement is wording.
- 8.15 If the Complaints Coordinator determines that the restrictions have been ineffective in managing the customer's conduct or are otherwise inappropriate, they should report their findings to the General Manager (or the Executive Leadership Group in instances referred to them for consideration) who may decide to either modify the restrictions, impose further restrictions or terminate the customer's access to Council services altogether.

9. REVIEW OF A DECISION TO CHANGE OR RESTRICT ACCESS TO OUR SERVICES

- 9.1 Customers are entitled to an internal review of a decision to change/restrict their access to our services. This review will be undertaken by a senior employee assigned by the General Manager who was not involved in the original decision to change or restrict the customer's access.
- 9.2 This employee will consider the complainant's arguments along with all relevant records regarding the customer's past conduct. They will advise the customer of the outcome of their appeal by letter signed off by the General Manager. The employee will then refer any materials/records relating to the appeal to the Complaints Coordinator to be kept in the appropriate file.
- 9.3 If a customer continues to be dissatisfied after the appeal process, they may seek an external review from an oversight agency such as the NSW Ombudsman.

10. NON-COMPLIANCE WITH A CHANGE OR RESTRICTION ON ACCESS TO OUR SERVICES

- 10.1 All employees are responsible for recording and reporting incidents of non-compliance by customers.

10.2 Details of non-compliance should be recorded in a file note in EDMS and a copy forwarded to the Complaints Coordinator to report the matter to the General Manager (or the Executive Leadership Group in instances referred to them for consideration) who will decide whether any action needs to be taken to modify or further restrict the customer's access to our services.

11. PERIODIC REVIEW OF ALL CASES WHERE THIS POLICY APPLIES

11.1 All unreasonable customer conduct incidences where this policy is applied will be reviewed not more than 12 months after the service change or restriction was initially imposed or continued/upheld.

All unreasonable customer conduct incidences where this policy is applied will be reviewed not more than 12 months after the service change or restriction was initially imposed or continued/upheld.

11.2 The Complaints Coordinator may invite all customers to participate in the review process unless they determine that this invitation will provoke a negative response from the complainant (ie further Unreasonable Conduct). The invitation will be given and the review will be conducted in accordance with the customer's access restrictions (eg if contact has been restricted to writing only then the invitation to participate will be done in writing).

11.3 When conducting a review the Complaints Coordinator will consider:

- whether the customer has had any contact with the organisation during the restriction period;
- the customer's conduct during the restriction period;
- any information/arguments put forward by the customer for review; and
- any other information that may be relevant in the circumstances.

11.4 The Complaints Coordinator may also consult any staff members who have had contact with the customer during the restriction period.

11.5 Once the Complaints Coordinator has reviewed the matter, a report will be prepared and provided to the General Manager to consider and for a decision on the review to be made. The General Manager may resolve to refer the matter to Council's Executive Leadership Group for consideration and determination.

11.6 The Complaints Coordinator will notify the customer of the outcome of their review using the appropriate/relevant method of communication as well as in writing letter explaining the outcome, as applicable.

11.7 The review letter will:

- briefly explain the review process;
- identify the factors that have been taken into account during the review; and
- explain the decision/outcome of the review and the reasons for it.

11.8 If the outcome of the review is to maintain or modify the restriction the review letter will also:

- indicate the nature of the new or continued restriction;
- state the duration of the new restriction period;

- provide the name and contact details of the Council Officer who the customer can contact to discuss the letter; and
- be signed by the General Manager.

11.9 Like all other decisions made under this policy, the Complaints Coordinator is responsible for keeping a record of the outcome of the review, updating EMDS and Council's Unreasonable Customer Conduct Register and notifying all relevant staff of the outcome of the review including if the restriction has been withdrawn.

12. CONFIDENTIALITY

12.1 Information about unreasonable customer conduct allegations, investigations, findings and management is to be treated as confidential and is not to be publicly disclosed **except** as may be **otherwise** specifically required or permitted under these procedures.

12.2 Any personal information collected and stored by Council will be used and disclosed only in accordance with the *Privacy and Personal Information Protection Act 1998*.

12.3 Disclosure of customer details is not supported by Council but it is required to deal with any requests for access to such details in accordance with Council's Access to Information Policy, the *Local Government Act 1993* and/or the *Government Information (Public Access) Act 2009* (GIPA), whichever is applicable in the circumstances.

□ * * *

RELEVANT LEGISLATIVE INSTRUMENTS:

Local Government Act 1993
Government Information (Public Access) Act 2009
Privacy and Personal Information Protection Act 1998

RELATED POLICIES, PLANS AND PROCEDURES:

Feedback Policy
Government Information (Public Access) Act 2009 – Agency Information Guide
Code of Conduct
NSW Ombudsman Managing Unreasonable Complainant Conduct Model Policy & Procedure

RESPONSIBLE DIRECTOR:

Customer and Corporate Strategy

APPROVAL:

Council

HISTORY:

Version	Approved by	Changes made	Date	EDMS Number
1	Council	New	23/07/2019	19/219564

UNREASONABLE CUSTOMER CONDUCT INCIDENT FORM

This form should only be completed if you encounter unreasonable customer conduct and consider that steps may need to be taken to change or restrict a customer's access to services provide by our organisation.

You must complete this form and send it electronically to Council's Complaints Coordinator within one (1) day of an unreasonable customer conduct incident occurring.

Date:	
Time:	
Place of Occurrence:	
Customer Name:	
Customer Contact Detail:	
Employee Name:	
Employee Position:	
Employee Branch:	
Details of customer conduct/incident:	
Why did you consider this conduct to be unreasonable? <i>For example – has it occurred before/repeatedly, caused significant disruptions to our organisation, has or could raise significant health and safety issues for our staff or other persons.</i>	

What action, if any, have you taken to deal with/manage the customers conduct?

For example – warning the complainant ‘verbally’ about their conduct, other/previous attempts to manage the behaviour etc.

What do you think should be done to effectively manage the customers conduct?

Note – the final recommendation on the appropriate course of action will be made by the Complaints Coordinator and reported to the General Manager and/or Executive Leadership Group for consideration and decision.

Is there any other information that might be relevant to this case? If necessary, attached any supporting documentation.