

# PCCS



Police Complaints Commissioner  
for Scotland

**Request for complaint handling review of a complaint about**

**Fife Constabulary**

**under the provisions of  
the Police, Public Order and Criminal Justice (Scotland) Act 2006**

**September 2008**

Case reference: PCCS/0809/00192/PF-FC

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## **Introduction**

The role of the Police Complaints Commissioner for Scotland was established by the Police, Public Order and Criminal Justice (Scotland) Act 2006 (“the Act”) to consider and review the way police authorities, police forces and policing agencies handle complaints from the public. I was appointed by the Scottish Ministers as the first Police Complaints Commissioner for Scotland, taking up my powers from 1 April 2007. My office provides a free and independent service, reviewing the handling of complaints fairly, looking at both sides of what has happened and looking at the facts.

I aim to review complaints in an independent, open and fair manner. In line with this aim I will publish the reports of my complaint handling reviews, whilst bearing in mind individuals’ rights to confidentiality. The following report therefore details my consideration, but does not include individual names of complainers, police officers or others affected by the events detailed therein.

## 1. Request for review

The complainer has requested that I review the handling of his complaints about Fife Constabulary. His complaints originate from the handling of his mother's finances, her care by the social work department, and the police investigations into his allegations about these matters.

**Complaint 1** – That the force did not investigate properly the complainer's allegation of misappropriation of funds by the social work department;

**Complaint 2** – That Police Constable A took a page of a bank statement without the complainer's permission;

**Complaint 3** – That the force failed to investigate properly the allegation that out of date foodstuff contributed to his mother's death;

**Complaint 4** – Whilst being arrested he was assaulted by the police officers involved; and

**Complaint 5** – His mother's home was searched for drugs and he was detained and charged with offences.

## 2. Power to conduct a complaint handling review

Section 35 of the Act provides me with the authority to examine the manner in which an appropriate authority has handled a complaint about a police officer, member of police staff or the service provided by a relevant authority.

In order to carry out such a complaint handling review I request the complaint case papers from the force in question. I examine the facts of the complaint case, looking at information provided to me by both the complainer and the police force. I consider whether the information available does, or does not, support the complaint, and whether or not the force has responded to the complaint in a reasonable manner. I also consider whether the force communicated with the complainer in a reasonable manner, including whether the police force handled the complaint within a reasonable timescale. I then come to a view whether the conclusions drawn by the force in handling the complaint were reasonable in all the circumstances.

Once I have reached my conclusions I prepare a report which details the findings of my case handling review. This is then forwarded the relevant authority in accordance with section 35(3) of the Act. The complainer will be advised of the conclusions of this review and of what action, if any, I propose to take in consequence of those conclusions. Where the complaint is in respect of an act or omission by an individual police officer that person will also be informed of the conclusions of this review.

## 2.1 Relevant complaint

Section 34 of the Act provides that I may review the handling of a complaint where the complaint is “a relevant complaint”, defined as

*(1) ... a complaint which is given or sent ... to the appropriate authority in relation to the complaint.*

*(2) .... “complaint” means a written statement expressing dissatisfaction about an act or omission...*

*(3) But “complaint” does not include*

*(a) any statement made by a person serving with, or who has served with, the police, about the terms and conditions of that person's service with the police; or*

*(b) a statement which consists of or includes an allegation of an act or omission which constitutes a crime.*

The complainer has supplied a written statement expressing dissatisfaction about an act or omission by a force. The complaint is therefore a relevant complaint.

## 2.2 Relevant complainer

The Act further provides that I may review the handling of a complaint where the complainer falls within one of the following categories (section 34(6)):

*(a) a member of the public who claims to be the person in relation to whom the act or omission took place;*

*(b) a member of the public not falling within paragraph (a) who claims to have been adversely affected by the act or omission;*

*(c) a member of the public who claims to have witnessed the act or omission;*

*(d) a person acting on behalf of a person falling within any of paragraphs (a) to (c)*

The complainer is a member of the public who claims to have been adversely affected by an act or omission by the police. The complainer is therefore a relevant complainer under the terms of section 34(6)(a).

## 3. Background

After suffering an illness that limited her mobility, the complainer's mother had to move from the family home into more suitable accommodation. At the time the complainer lived with his mother so he was also re-housed, although he continued to

spend much of his time at his mother's house. Due to his circumstances, there were periods of time when the complainer felt that he was not able to provide complete care for his mother or look after her finances properly and asked social services for assistance. Between 1997 until her death in 2006, the social work department were involved in the complainer's mother's care and intermittently took responsibility for her finances when the complainer felt unable to do so.

During the years when his mother received care from social services, the complainer was involved in incidents which involved social work and the police. On 15 August 2005, social services visited the complainer's mother's house to ensure it was fit for her to return to after receiving respite care. Substances were found in the fridge and the social work department reported the matter to the police, who then searched the house. This was reported to the procurator fiscal and the complainer was convicted of two offences relating to the misuse of drugs.

On 17 September 2005, the complainer alleged that the carer who attended his mother had left her house unsecured. He confronted the carer about this and as a result the police were called. The complainer was subsequently arrested for breach of the peace.

In 2006, the complainer complained to social work that he believed items had been unnecessarily bought with his mother's money and he also complained that he believed money had been taken from his mother's accounts by social work without permission.

On 6 June 2006 the complainer called Fife Constabulary to report that there was a discrepancy in his mother's bank accounts of between £7,000 and £10,000 and that he had been seeking answers from social work for a year. The force told the complainer that this was a civil matter and directed him to the citizens advice bureau. It was noted on the call record that he had called previously and been given the same advice. He called again on 4 August 2006 making the same allegations. Although Police Constable A visited him the same day, he was advised that he should contact his bank as there was no evidence of a crime.

#### **4. Force internal handling**

**Complaint 1** – That the force did not investigate properly the complainer's allegation of misappropriation of funds by the social work department.

On 11 August 2006 the complainer called Fife Constabulary and stated that he was unhappy that the force had not investigated missing money from his mother's accounts. At that time the force noted that the complainer appreciated that this was not a police matter but a civil dispute between him and the council. The complainer then wrote to the force on 16 August 2006 about this complaint.

On 5 September 2006, Inspector L completed a divisional report which was sent to Chief Superintendent Z. The report noted five areas of concern raised in a letter from the complainer, including Complaint 1.

The report stated that the complainer had contacted the force on two previous occasions to report this matter and that the social work department, the bank, the financial ombudsman, his solicitor and the citizen advice bureau had all examined the situation and concluded there was no misappropriation of funds. The report stated that Police Constable A and Acting Inspector M had also examined the situation previously and explained to the complainer that there was no evidence to support his claims. Inspector L stated that he had also discussed the matter with the complainer and that he had provided no new evidence to support his claims of dishonesty. Inspector L stated in this report that the letter from the complainer in August 2006 was not a complaint against the police but communication raising the same issues he had raised previously.

A plain paper note dated 29 September 2006 from Acting Inspector M stated that he had responded to the complainer's call in August 2006 and believed it had been dealt with. He stated that he did not consider the complainer to be making a complaint against the police, and that he had taken the matter to be a civil dispute between the council and the complainer. He stated that he was unaware that he should have completed a complaint against the police form (CD1) at that time.

On the same day Acting Inspector M noted a statement from the complainer in which he said that he had reported his concerns the previous year to Fife Constabulary, but was told that there was nothing more that the force could do. He stated to Acting Inspector M that he understood that it was a civil dispute with the local council.

A letter from the complainer to the force dated 17 September 2006 referred to a previous reply from the force, and stated that the officers had only looked at bank statements when he believed they could do more. Chief Superintendent Z responded on 22 September 2006 stating that as no new evidence had been presented to the force, no further action could be taken.

On 3 October 2006, Acting Inspector M completed a CD1 form noting Complaint 1 above, but also noting that the complainer accepted that it was a civil matter.

Operational statements were obtained from Police Constable B and Police Constable C who visited the complainer following his telephone call to the force on 6 June 2006. Statements were also taken from Police Constable A who visited the complainer on 4 August 2006, following his telephone call on the same date, and from Detective Constable D who was asked (in mid January 2007) to investigate the allegations of fraud made by the complainer. All of the copy typed statements were undated.

On 10 January 2007, the complainer wrote to the force. The letter documented events from the complainer's viewpoint during the years that social work were involved in the management of his mother's finances. Inspector N responded on 17 January 2007 stating that he would be responsible for the complainer's complaint about the police, and also with determining whether a crime had been committed by any social work staff. Detective Constable D then created a crime file on 7 February 2007 regarding the misappropriation of funds. The crime file detailed the action

taken by the force between February 2007 and May 2007 in investigating the allegations.

During this time the force contacted the bank and checked copies of withdrawal slips for the previous six years (the bank's retention period for these) and the bank's security measures were checked for withdrawals. The force also requested information from the social work department and gained access to the financial files relating to the complainer's mother. It checked that all withdrawals and expenditure were accounted for. In May 2007 the force completed its investigation noting that there was no evidence to support the allegation of fraud against the social work department. Detective Constable D and Temporary Inspector P visited the complainer on 10 May 2007 to convey these findings to him. Temporary Inspector P stated that he was able to provide documentation to the complainer during this visit that showed *"there was nothing untoward going on"* and that the complainer had eventually accepted this.

On 5 July 2007, Temporary Inspector P provided Chief Superintendent Z with a divisional report on the complaint about the police. He also noted a statement from the complainer on the same day. The complainer stated, regarding his allegation that social work staff had taken money without authority, *"As a result the police were involved, so too were the [bank] and the Financial Ombudsman. All of these agencies have told me that they can find nothing which suggests anything criminal has happened with the accounts. I accept what they say but still don't believe it."* He went on to state that he believed an officer who visited him had taken a page of a bank statement as evidence that no crime was committed. The complainer believed that unlike other pages in the statement, that particular page had no anomalies. However, the complainer went on to state that the officers did accompany him to his bank to discuss matters with the bank manager and he agreed that he did not need to re-order any pages of the statement as he still had the original copy of the page he believed to be missing. This matter is considered in more detail as Complaint 2.

In his report, Temporary Inspector P referred to the previous report by Inspector L in September 2006 and the five areas that were noted to be of concern at that time. He went on to write that the current complaint again included the misappropriation of funds by social work staff. He stated that Detective Constable D had investigated the matter and concluded, through reconciling bank statements held by the complainer against records held by social work, that there was no evidence of a crime. This was communicated to the complainer on 10 May 2007.

On 31 July 2007, Superintendent X stated in an internal memo to Superintendent Y that he believed the file was not concluded. He noted that although the previous divisional report in September 2006 covered the issues, there did not appear to be a CD1 form or a letter of response to the complainer at that time. Due to this he recommended obtaining a clear statement from the complainer about outstanding issues and concluding the complaint about the police in a letter to the complainer. He also noted concern that the complainer's initial allegation was perhaps not originally dealt with correctly by officers who classified it as a civil matter and not a crime, with no investigation.

A further divisional report was sent to Chief Superintendent Z by Inspector L on 16 August 2007. He wrote that he and Sergeant F visited the complainer on 5 August 2007, noted a further statement from him and reiterated the outcomes that had already been communicated to him. Inspector L also noted a new CD1 form on this date, that again included Complaint 1.

Also on 16 August 2007, Chief Superintendent Z wrote an internal memo to Superintendent X of the Professional Standards Department. He stated that in relation to the complainer's complaints about the police, he was reluctant to have old complaints about the police reopened and that he felt it was clear the allegations of misappropriation of funds were unfounded at the time and still were unfounded. He also made clear the reason for this view was that following communication from the complainer in September 2006, he had instructed Inspector N to "*examine the criminal allegation of fraud*". He had not requested that the officers also review the complainer's complaints. He made it clear that it had been difficult for the officers to avoid being drawn into the history of the complainer's complaints, and stated that action had subsequently been taken. Inspector L had completed a CD1 form and prepared an amended report. Chief Superintendent Z instructed that when it was clear how the force should proceed, the outcome should be communicated to the complainer by letter.

On 23 October 2007 Superintendent X recommended to the Deputy Chief Constable that a final letter be sent to the complainer detailing the outcome. He explained that any delay was due to problems establishing what the complainer's complaints were and whether they had been adequately resolved.

On 29 October 2007, a final response was sent to the complainer stating that following a full investigation, no evidence of a crime was found in relation to his mother's bank accounts.

**Complaint 2** – That Police Constable A took a page of a bank statement without the complainer's permission.

In his divisional report to Chief Superintendent Z on 5 July 2007, Temporary Inspector P advised that during a meeting with the complainer on 10 May 2007 to convey the force's findings about his other complaints, the complainer stated that when Police Constable A visited his home to discuss the allegations against the social work department, he had taken a page of his bank statement in order to prejudice the outcome of his complaint against the social work department. Temporary Inspector P concluded that this allegation appeared to be unfounded.

In the statement taken from the complainer on 5 July 2006, he stated that while investigating his allegations against the social work department, Police Constable A visited his house. During the visit Police Constable A told him that he could see nothing from the complainer's bank statements that suggested any criminal activity. The complainer stated that when Police Constable A left, page 10 of a 13 page bank statement was missing. He referred to a visit to the bank with Temporary Inspector P and Sergeant F on 5 July 2007 to discuss his mother's accounts and he agreed

that because he had the original copy of the missing page, he had no need to order another one.

In an undated statement Police Constable A explained that when he visited the complainer on 4 August 2006 to investigate the allegations against the social work department, the complainer had many bank statements for different accounts lying on the floor in no particular order. He advised the complainer to arrange them in date order and obtain copies of any that were missing from the bank. He stated the complainer accepted this advice.

This matter does not appear to be mentioned again until a further divisional report on 16 August 2007 to Chief Superintendent Z from Inspector L into the complainer's complaints about the police. Inspector L wrote that the complainer believed Police Constable A had taken the page of the statement to show that there was nothing wrong with the account, as this page did not show any discrepancies. He noted that the complainer reported the missing page at the time, but the complainer could not remember what had been said then. Inspector L went on to state that there was no evidence that the page had been taken and no reason for such action. On 16 August 2007, Inspector L also completed a CD1 form about the complainer's complaints. Complaint 2 was noted on the form.

On the same date Chief Superintendent Z wrote a memo to Superintendent X of the Professional Standards Department explaining that he had previously instructed that the criminal allegations be investigated, not that a review of his complaints about the police should be carried out. However he made it clear that it had been difficult for the officers to avoid being drawn into the history of the complainer's complaints. He went on to advise Superintendent X of action that was subsequently taken, stating that Inspector L had now completed a CD1 form and prepared an amended report. Chief Superintendent Z noted that when it was clear how the force should proceed, the outcome should be communicated to the complainer by letter.

On 23 October 2007, Superintendent X recommended to the Deputy Chief Constable that the complaints had been adequately resolved and a letter should be sent to the complainer detailing the outcomes.

On 29 October 2007, Chief Superintendent Z wrote to the complainer stating that there was nothing to support his claim that Police Constable A had taken a page of his bank statement without permission, and that officers had in fact helped him obtain a full set of statements from the bank.

**Complaint 3** – That the force failed to investigate properly the allegation that out of date foodstuff contributed to his mother's death

A letter to the force from the complainer dated 16 August 2006 stated that he had unwittingly given his mother out of date drinks before her death. He wrote that the council's environmental health service had tested the products and found them to be safe. He also wrote that the manufacturer had written stating the drinks had been wrongly dated.

A divisional report about the complainer's complaints dated 5 September 2006 by Inspector L to Chief Superintendent Z stated that the complainer believed food products supplied by the pharmacy were out of date and that he had given the drinks to his mother and this had contributed to her death. The report stated that the complainer had contacted the pharmacy and the local environmental health department. He was advised that the products had been dated in American format, (ie month/day/year, rather than day/month/year) but they had been tested by environmental health and found to be safe. Inspector L's report concluded that the allegation of food poisoning was not supported by any evidence and that the complainer's mother had died of ongoing medical complications. The complainer's mother's death had also been reported to the procurator fiscal for consideration.

The force responded to the complainer on 22 September 2006 stating that the drinks were tested, found to be safe and that the death of his mother had been reported to the procurator fiscal and no suspicious circumstances had been found.

There appeared to be no further mention of this issue until a further divisional report dated 5 July 2007 by Temporary Inspector P to Chief Superintendent Z. The report, in the background section, referred to the letter that was sent by the complainer in August 2006, resulting in Inspector L's previous report in September 2006. Temporary Inspector P noted that the facts regarding the issue of dates on the foodstuff had been previously communicated to the complainer.

In his memo to Superintendent Y on 31 July 2007, Superintendent X noted that while he believed the complainer's complaint was that the force failed to investigate the allegation that he was given out of date foodstuff that contributed to his mother's death, the complainer had not, in fact, clearly stated this to be a complaint about the police. He went on to recommend that a statement be taken to clarify this. The statement was taken on 5 August 2007. In his statement the complainer stated his concern again that the foodstuff was out of date and his mother ended up in hospital vomiting.

On 5 August 2007 the complaint that *"foodstuffs prescribed to his mother were out of date and contributed to his mother's death."* was noted on a CD1 form. On 29 October 2007 a letter was sent by the force to the complainer that reiterated the previous response that the product had been tested and was found fit for consumption and that his mother's death had been reported to the procurator fiscal and there were no suspicious circumstances found.

**Complaint 4** – Whilst being arrested he was assaulted by the police officers involved.

The complainer made this complaint to the force following his arrest on 17 September 2005. The allegation was investigated by Sergeant G in terms of the Police Conduct (Scotland) Regulations 1996. The matter was also reported to the procurator fiscal. The investigating officer obtained witness statements and medical reports. The outcome of the complaint was communicated to the complainer by the Deputy Chief Constable in a letter dated 15 February 2006.

In his divisional report of 5 September 2006, Inspector L noted from a letter sent to the force on 16 August 2006, that the complainer again referred to his complaint that he was assaulted. He also noted in his report that the outcome of this matter was previously communicated to the complainer by the Deputy Chief Constable. Chief Superintendent Z confirmed the force's position to the complainer again in a letter dated 22 September 2006.

No reference was made to this complaint again by the force until Temporary Inspector P's divisional report on 5 July 2007 when he listed the complaint of assault as a complaint about the police. He went on to comment in his report that the complaint was previously investigated and reported to the procurator fiscal, and that the complainer had received a letter detailing the outcome.

Following a visit to the complainer to discuss his outstanding issues on 5 August 2007, Inspector L recorded the complaint on a CD1 form with the complainer's other complaints about the police. He noted on the form that that this complaint was already on a previous CD1 form and had been dealt with. His report on the same date also referred to the complaint stating the same outcome as before.

The final letter to the complainer dated 29 October 2007 from Chief Superintendent Z stated that the matter had been previously investigated and a response provided by the force regarding this complaint.

**Complaint 5** – His mother's home was searched for drugs and he was detained and charged with offences.

The complainer wrote to the force on 16 August 2006 stating that social work staff were involved in calling the police to his mother's house which resulted in him being charged with supplying drugs. The complainer denied the allegation and stated that because of his denial the officers then accused his mother of supplying drugs.

Inspector L noted Complaint 5 in his divisional report to Chief Superintendent Z on 5 September 2006. He stated that the complainer was upset that drugs were found and that social work staff had reported the matter to the police in August 2005. He noted that although the complainer raised this as a complaint, he was convicted of two charges at the time. This report stated that the complainer's letter in August 2006 was not a complaint about the police but a communication raising previous issues.

The force responded to the complainer in a letter dated 22 September 2006 stating that this matter had been dealt with through the justice system and that there was nothing to indicate that procedures were not correctly followed.

In his divisional report of 5 July 2007, Temporary Inspector P again referred to this complaint. He reiterated the conclusion of Inspector L in September 2006 and stated that the complainer was upset that the issue was reported to the police and drugs were found rather than having any concerns about police misconduct.

In a memo on 31 July Superintendent X of the Professional Standards Department noted concern that it was unclear what the complainer's complaint actually was and whether he was making a complaint about the police in relation to this issue. He suggested that this needed to be clarified. A further statement was then taken from the complainer on 5 August 2007 when he stated that he had been involved with the police about drugs but had no further issues about that.

Inspector L then noted the complaint in similar terms on a CD1 form on 5 August 2007. In his report of 16 August 2007 he stated that the complainer had no issues with this matter and it was "finished with".

The final response from the force on 29 October 2007 stated that the search of his home had been properly conducted and pursued through the criminal court procedures. The response also referred to the complainer's statement of 5 August 2007 in which he indicated that he had no further issue with this matter.

## **5. PCCS review**

I note that the complainer contacted Her Majesty's Inspectorate of the Constabulary for Scotland (HMICS) on 20 September 2006. HMICS contacted Fife Constabulary the next day to establish whether the force had completed the investigation into his complaints. HMICS then directed the complainer back to the force until such time as the force had completed the investigation into his complaints about the police.

I note that the complainer corresponded with HMICS until November 2007 when, following completion of the force's investigation into his complaints, HMICS directed the complainer to my office.

The complainer contacted my office by telephone on 5 November 2007. He was asked to complete and sign an application for review form. This was returned to my office on 8 November 2007, together with other relevant information. My office asked Fife Constabulary to provide the relevant complaint case papers on the same date.

The complainer sent additional documents to my office on 13 November 2007 including correspondence from the force, HMICS and other bodies.

Fife Constabulary wrote to my office on 15 November 2007 to advise that the complaint had recently been referred to HMICS. My office asked HMICS to provide the relevant complaint case papers on 19 November 2007. The relevant papers were received from HMICS on 26 November 2007.

My office wrote to Fife Constabulary on 19 November 2007 requesting any relevant papers held pertaining to the complainer's complaints about the police. The relevant papers were received on 30 November 2007.

On 13 March 2008 and 29 May 2008, the complainer forwarded further information to my office. My office has also received further correspondence intermittently from

the complainer throughout the review process. The complainer was regularly updated on the progress of his complaint throughout the review process.

Following further review of the file, my office called the force on 3 September 2008 to request further information. This was received on 8 September 2008.

## **6. Consideration**

**Complaint 1** – That the force did not investigate properly the complainer’s allegation of misappropriation of funds by the social work department.

It appears from the information provided that, for a long time, this was the main concern of the complainer. It is unclear exactly when the complainer first made the allegations to the force but there is reference in the case papers to the matter having been previously investigated and concluded.

The complaint about the police appears to have been acknowledged by the force following receipt of a letter dated 16 August 2006, and I note that the force responded to the complainer in its letter of 22 September 2006. The response stated that the issue had been previously raised and investigated, and that social services, a solicitor and the financial ombudsman had all advised him that there was no evidence to support his allegation, and therefore no further action could be taken by the force.

When the complainer called the force on 11 August 2006 he was advised that it was not a police matter but was a civil matter between him and Fife Council. However it is clear that on 31 July 2007, Superintendent X, in a memorandum to Superintendent Y questioned why officers had decided that this complaint was a civil matter and recommended that the force should clarify the specific issues with the complainer.

From the information provided, it is clear that the complainer’s complaint was investigated on three occasions all with the same result. Although in the earlier stages of the complaint handling process it appears that the force was unclear if it was dealing with the criminal allegations or with the complaint about the police, I note that Chief Superintendent Z sought to clarify this in his memo to Superintendent X in August 2007. In this memo, Chief Superintendent Z explained the reason for the apparent duplication of work, stating that he had specifically ordered investigation into the complainer’s criminal allegations and not his complaint about the police.

I am satisfied that once the force recognised the reasons for the confusion and delay in resolving the complainer’s issues, an enquiry report was completed and the outcome was communicated clearly to the complainer in the final letter of 29 October 2007.

**Complaint 2** – That Police Constable A took a page of a bank statement without the complainer’s permission.

It is unclear from the information provided when the complainer first made this complaint to the force. Police Constable A visited the complainer on 4 August 2006 and the complainer stated that he had telephoned the force after the incident to report it. However this is not evident in information provided to my office. I note in his statement of 5 July 2007 the complainer went into some detail about this issue. I also note that the complainer agreed that since he had the original copies of all the pages of his statements, he had no need to order copies from the bank.

From the information provided, it appears that the force has noted this complaint appropriately, taken statements from the complainer and the officer involved and investigated the matter adequately. It is my view that the force's final response to the complainer, that there was no evidence to support his claim and that the officer had in fact assisted him in ensuring he had a full set of statements, was reasonable given the circumstances.

**Complaint 3** – That the force failed to investigate properly the allegation that out of date foodstuff contributed to his mother's death.

Although the complainer brought this matter to the force's attention in a letter dated 16 August 2006, from the information provided to my office by the complainer it appears that he had been carrying out his own investigation into the safety of the products for some time through other bodies and that the force was aware of his concerns.

The force responded to the complainer's letter on 22 September 2006, stating the outcome of its investigation into the matter was that the products had been tested and found to be safe, that the death of his mother had been correctly reported to the procurator fiscal and no suspicious circumstances were found.

This was clearly a very sensitive issue for the complainer. On realising that the products had been incorrectly labelled, the complainer had difficulty accepting the outcome of the investigation that the products were in fact safe for consumption. It is also understandable that he needed reassurance that he had not inadvertently contributed to the death of his mother by providing her with the drinks.

The force appeared to have difficulty establishing if this was a complaint about the police and from the information provided to my office, this was noted by Superintendent X in his memo to Superintendent Y on 31 July 2007. I concur that this was not an easy task. I note that the force went on to investigate the matter as a complaint about the police and communicated a satisfactory outcome again to the complainer in its letter of 29 October 2007.

**Complaint 4** – Whilst being arrested he was assaulted by the police officers involved.

I note that this complaint was investigated and reported to the procurator fiscal. I also note that this complaint was dealt with as a separate complaint about the police, under formal procedures, and that the outcome was communicated to the complainer in a letter from the Deputy Chief Constable in February 2006.

**Complaint 5** – His mother’s home was searched for drugs and he was detained and charged with offences.

It appears that the force recorded the complaint about the police as being that the house was searched and the complainer was charged with offences. In my view, the force’s answer that the incident was correctly reported to the procurator fiscal and the complainer was convicted as a result, was an adequate response to the complaint that the force had recorded. However it is my view that this was not the full extent of the complainer’s complaint about the police in respect of this matter, and he remained upset that his mother may have been implicated in the supply of illegal drugs.

I understand from the information available to my office that the complainer was concerned that the officers who attended the incident had threatened to charge his elderly mother with supplying drugs, when the complainer denied that he was concerned with the supply of them.

I note that Superintendent X stated in a memo to Superintendent Y that with regard to this complaint, it was not explicitly stated what was complained about, and he believed this should be clarified. I also note that the force then attempted to do this by taking a third statement from the complainer in August 2007. In this statement the complainer stated that he had been involved with the police about drugs but he had no further issues about that.

It is my view that the complainer’s original complaint in respect of this issue was not dealt with because the actual complaint was not properly identified. However, it is also my view that the force made several attempts to establish what his complaint about the police was, and based on the information provided by the complainer in his statements and throughout the complaint handling process, the force provided a sufficient response in respect of this complaint about the police.

## **7. Conclusion**

**Complaint 1** – That the force did not investigate properly the complainer’s allegation of misappropriation of funds by the social work department.

Although the force experienced initial problems in dealing with this matter, I am satisfied that once it established the reasons for the confusion and delay in resolving the complainer’s complaint, an enquiry report was completed and the outcome was communicated clearly to the complainer in the final letter of 29 October 2007. As such **I do not uphold this complaint.**

**Complaint 2** – That Police Constable A took a page of a bank statement without the complainer’s permission.

From the information available to my office, it appears that the force has noted this complaint appropriately, taken statements from the complainer and the officer involved and reasonably investigated the complaint. The outcome was also clearly communicated to the complainer and as such, **I do not uphold this complaint.**

**Complaint 3** – That the force failed to investigate properly the allegation that out of date foodstuff contributed to his mother’s death.

Although the force appeared to have difficulty establishing if this was a complaint about the police, I note that the force went on to investigate the matter as a complaint about the police and communicated a satisfactory outcome to the complainer. As such, **I do not uphold this complaint.**

**Complaint 4** – Whilst being arrested, the complainer was assaulted by the police officers involved.

I note that after the complaint was considered by the procurator fiscal, the force handled the matter under the Police Conduct (Scotland) Regulations 1996. Thereafter, the outcome of the complaint was communicated to the complainer by the force in a letter dated 15 February 2006. This matter has been dealt with by the appropriate authorities, so no further action is required.

**Complaint 5** – His mother’s home was searched for drugs and he was detained and charged with offences.

While it is my view that the complainer’s original issues in respect of this complaint were not identified and dealt with at the time, the force made numerous attempts to establish what his complaint about the police was and, based on the information provided by the complainer, the force provided a sufficient response in respect of this complaint about the police. As such, **I do not uphold this complaint.**

Jim Martin  
Police Complaints Commissioner for Scotland  
September 2008