OUTER HOUSE, COURT OF SESSION

[2018] CSOH 110

P1235/17

OPINION OF LORD ERICHT

In the petition

WILLIAM BEGGS

Petitioner

against

THE SCOTTISH MINISTERS

Respondents

Petitioner: KJ Campbell QC; Drummond Miller LLP
Respondents: Byrne; SGLD

27 November 2017

Introduction

[1] The petitioner is a prisoner in HM Prison, Edinburgh. The petitioner has concerns about the way in which his correspondence is dealt with by the Scottish Prison Service (SPS). He has previously brought judicial review proceedings in relation to various aspects of his correspondence. He has been successful in a number of applications, including *Beggs* v *Scottish Ministers* [2015] CSOH 98. He has been unsuccessful in respect of a judicial review in respect of the policy of how the prison authorities deal with correspondence to prisoners from the Health and Care Professionals Council (HCPC): *Beggs* v *Scottish Ministers* [2018] CSOH 3; 2018 SLT 199. In this application, the petitioner seeks judicial review in respect of

the respondent's policy on correspondence to prisoners from the National Health Service Scottish Bowel Screening Centre (SBSC).

[2] It is important to note at the outset that the issue before the court in this case is a narrow one. The petition as originally drafted sought five different declarators in relation to correspondence with SBSC, including declarator that the respondent had interfered with the petitioner's correspondence unlawfully and in breach of article 8 of the European Convention. The original petition also sought damages for the opening of the petitioner's SBSC correspondence. By interlocutor dated 11 May 2018, the Lord Ordinary refused permission to proceed except in relation to the fifth order sought by the petitioner, namely:

> "Declarator that the respondents' refusal to include prisoners' correspondence with the NHS Scottish Bowel Screening Centre as confidential or privilege correspondence within their policy and Correspondence Directions is unlawful."

Accordingly the argument before me was limited to this one matter. This case is about the procedure for dealing with SBSC mail. It is not about the circumstances of the opening of a particular letter from the SBSC to the petitioner.

Prison Rules on Correspondence

[3] Prisoner's correspondence is regulated by Part 8 of the Prisons and Young Offenders Institutions (Scotland) Rules 2011 (SSI 2011/331) (the "Rules"). Rule 54 permits prisoners to send and receive letters and packages by means of the postal service or otherwise. Rule 55 permits a prison officer to open letters and in some circumstances read them. However Rule 56 limits the power of the officer to open and read confidential letters.

Opening and reading of non-confidential letters

[4] Rule 55 provides:

"55(1) This rule applies to any letter or package, other than one to which rule 56 or 57 applies, which a prisoner wishes to send or which is addressed to a prisoner.

(2) An officer or employee may open a letter or package to which this rule applies and remove the contents of that letter or package.

(3) Where an officer or employee proposes to open a letter or package to which this rule applies, or remove the contents of that letter or package, the officer or employee may ask the prisoner to be present when the letter or package is opened or its contents removed.

(4) The contents of a letter of package to which this rule applies may only be read by an officer or employee –

(a) in the circumstances specified in a direction by the Scottish Ministers ...

and;

(b) in accordance with any conditions specified in a direction by the Scottish Ministers ..."

[5] The Scottish Ministers have made the Scottish Prison Rules (Correspondence) Direction 2012 (the "2012 Direction"). Paragraph 3 provides:

"**Reading of prisoners' correspondence**

3.-(1) Subject to sub-paragraph (2), the contents of correspondence to which rule 55 applies must not be read by an officer or employee unless the officer has reasonable cause to believe that the contents of the correspondence may –

(a) endanger the security of the prison;

(b) endanger the safety of any person;

(c) relate to a criminal activity; or

(d) constitute a breach of paragraph 5 [which lists specific banned items]

...

(3) Correspondence may only be read by an officer under sub-paragraphs (1) … where –

(a) the officer has explained to the prisoner concerned the reason why the correspondence is being read; and

(b) the prisoner concerned is present when the correspondence is being read."

Confidential Correspondence

[6] Rule 56 makes special provision for "confidential correspondence".

Definition of "Confidential Correspondence"

[7] "Confidential Correspondence" is defined as meaning *inter alia* "medical correspondence" and "privileged correspondence". It should be noted that "medical correspondence" is a sub-category of "confidential correspondence", not a separate category in its own right.

Definition of "Medical Correspondence"

[8] "Medical Correspondence" is defined in Rule 56(7) as follows:

"medical correspondence" means a letter or package which contains personal health information about a relevant prisoner and is –

(a) addressed to a registered medical practitioner and given to an officer or employee by the relevant prisoner for the purpose of sending to that registered medical practitioner' or

(b) sent to the relevant prisoner at the prison by a registered medical practitioner;

"relevant prisoner" means a prisoner who –

(a) is certified as having a life-threatening illness by the registered medical practitioner from whom the prisoner is receiving treatment for that illness; and

(b) has obtained the Governor's prior consent to communicate with that registered medical practitioner in confidence."

[9] The definition of "medical correspondence" corresponds with the facts of the decision of the Strasbourg court in *Szuluk* v *United Kingdom* (2010) 50 EHRR 10. In that case a prisoner who had suffered a brain haemorrhage was required to go to hospital every six months for a check-up by his specialist. The prison governor decided that the prisoner's correspondence with his specialist would be examined by the prison medical officer to verify its medical status. The court held that there had been a violation of article 8.

Definition of "Privileged Correspondence"

[10] "Privileged Correspondence" is defined in Rule 56(7) as follows:

> "privileged correspondence" means a letter or package which is –
>
> (a) addressed to a person, authority or organisation specified in a direction made by the Scottish Ministers and which a prisoner gives to an officer or employee for the purpose of sending to that person, authority or organisation; or
>
> (b) sent to a prisoner at the prison by a person, authority or organisation specified in a direction made by the Scottish Ministers;"

It is apparent from this definition that the word "privileged" is used in the ordinary prison sense of being a discretionary benefit bestowed to prisoners, rather than the technical legal sense which would apply for example to correspondence between a prisoner and his solicitor.

[11] The list of persons authorities and organisations specified by the Scottish Ministers is set out in paragraph 7 of the 2012 Direction and comprises:

(a) The Scottish Human Rights Commission;

(b) The Equality and Human Rights Commission;

(c) The Law Society of Scotland;

(d) The Office of the Scottish Information Commissioner'

(e) The Office of the UK Information Commissioner;

(f) The Risk Management Authority;

(g) The Samaritans;

(h) The Scottish Children's Reporter Administration;

(i) The Scottish Legal Complaints Commission;

(j) The Scottish Public Services Ombudsman;

(k) The Scottish Legal Aid Board.

The SBSC is not included in that list.

Opening and reading of confidential correspondence

[12] The opening and reading of confidential correspondence is dealt with by Rule 56 as follows:

"56- Opening and reading of confidential correspondence

(1) This rule applies to a letter or package which can be clearly identified, from the outer face of the envelope or packaging, as containing or comprising confidential correspondence.

(2) An officer or employee must not open a letter or package to which this rule applies, or remove the contents of that letter or package, unless –

(a) the officer or employee has cause to believe that it contains a prohibited article or unauthorised property; or

(b) The officer or employee has reasonable cause to believe that the contents of the letter or package may –

(i) endanger the security of the prison;

(ii) endanger the safety of any person; or

(iii) relate to a criminal activity.

(3) Where an officer or employee proposes to open a letter or package to which this rule applies, or remove the contents of that letter or package, under paragraph (2), the officer or employee must –

(a) inform the prisoner who wishes to send the letter or package or to whom the letter or package is addressed of the reason for opening the letter or package or removing its contents; and

(b) ensure that the prisoner is present when the letter or package is opened or its contents removed, unless the prisoner refuses, or does not wish, to be present.

(4) The contents of a letter or package to which this rule applies must not be read by an officer or employee unless that officer or employee has –

(a) been authorised by the Governor to do so under paragraph (5); and

(b) informed the prisoner of the reason for reading the contents of the letter or package.

(5) The Governor may authorise an officer or employee to read the contents of a letter or package to which this rule applies where the Governor has reasonable cause to believe that the contents of the letter or package may –

(a) endanger the security of the prison;

(b) endanger the safety of any person; or

(c) relate to a criminal activity."

[13] Rule 57 sets out the procedure which is to be followed when an officer has opened confidential correspondence which was not identified as such on the envelope.

Factual Circumstances

Correspondence to the petitioner from the SBSC

[14] The SBSC operates the Scottish Bowel Screening Programme. All men and women aged over 50 in Scotland can take part in bowel screening by completing a bowel screening

test at home every two years. Every two years the SBSC sends a test kit to everyone between 50 and 74 years of age. If the recipient wishes to take part in the programme, he or she posts the completed test kit back to the SBSC. The SBSC then posts the result back to the individual in two weeks. Most people have a negative result, in which case they are sent another test in two years' time. If the result is positive, it means that blood has been found in the test. It is important to find out if this is a sign of cancer or something else less serious. If the initial test is positive, the SBSC writes to tell the person about the follow-up test. The next test is offered by the person's local health board. This is usually a colonoscopy which takes place in hospital as a morning or afternoon outpatient appointment. About ten in every 500 people taking the initial test have a positive result. When these ten people have the follow-up test it is likely that only one of them will be found to have cancer, four will have pre-cancerous growths and the other five will be clear. The correspondence from the SBSC is in standard form. The standard letters bear to be signed by Professor Bob Steele in his capacity as the Clinical Director of the SBSC.

[15] It can be seen from this that the SBSC has a very particular and limited function. It is a national initial screening service. It does not diagnose whether a person has bowel cancer. It screens the general population and identifies those to whom a further test should be offered. It does not itself offer the further test. It passes the person on to the person's local health board and the local health board takes matters forward. It is the local health board, not the SBSC, which offers the follow-up test and makes the diagnosis.

[16] On 4 October 2017, the SBSC wrote to the petitioner enclosing the test kit and inviting him to send back the completed test kit. The letter was a standard letter which went out under the name of Professor Bob Steele, Clinical Director. The letter was not addressed

to Mr Beggs at HM Prison, Edinburgh. The letter was addressed to Mr Beggs at "the Health Centre" at a PO Box in Edinburgh. The PO Box was the PO Box of the prison health centre.

[17] The envelope in which the SBSC letter had been sent was produced to me. It was an A5 white envelope, with a clear window for the address to show through from the letter. The letter was marked "Private & Confidential" and these words would show through the clear window. The envelope did not state in terms that it was from the SBSC. The front of the envelope had the NHS Scotland logo on it. The back of the envelope had printed on it "Return Address: Block 8, Ground Floor, DD3 8EA." This was the post code of the SBSC. However, there was no further identification of the precise address of the building in which the return address was situated. In short, there was nothing on the envelope which would identify it as having come from the SBSC.

[18] By letter dated 27 October 2017 (the "Second Letter"), the SBSC notified the petitioner that the test result was a negative one. The Second Letter was a standard letter under the name of Professor Steele. Although the envelope was not produced, both parties accepted that it would be a similar envelope to that described above in relation to the initial letter. So again there would have been nothing on the envelope which would have identified it as having come from the SBSC.

[19] Edinburgh Prison operates a special protocol (the "Protocol") relating the management of all correspondence for this petitioner. The Protocol applies in particular to the petitioner and not to any other prisoner. The Protocol is set out in instructions by the Governor dated 20 April 2016. These instructions set out detailed procedures for how the petitioner's correspondence is to be dealt with, and for the recording of the procedures in Log Sheets and for regular audits of the process. The Protocol provides that his mail is to be

retained securely until he is available to receive the mail, at which point his mail is to be handed over to him witnessed by a member of the prison staff.

[20] Health care in prisons is provided by the National Health Service, further to a transfer to the NHS by the Scottish Prison Service in 2011. Although the Second Letter was addressed to the petitioner at "the Health Centre", it was given to him by a member of the prison staff having been processed in terms of the Protocol.

[21] The Second Letter was opened by a prison officer, Mr Colin Lawrie on 1 November 2017 in the presence of the petitioner. This was done in order to comply with the Protocol.

[22] There was a dispute as to fact as to whether the letter had been read. The petitioner averred "Colin Lawrie read the letter, and indicated that he was checking whether the letter was advising of a medical appointment". The respondent on the other hand averred "the correspondence contained within the envelope was not read, the correspondence was noted not to be a notification of an appointment and passed to the petitioner unread".

[23] Counsel for the respondent explained that the letter was checked for security reasons: if a prisoner knows in advance about a medical appointment outside the prison in an unsecure environment such as a hospital then he or his associates can make plans to take advantage of that insecurity. The respondent's averment seems to me on the face of it to be internally inconsistent as it is difficult to understand how the prison officer could have identified that the letter did not contain notification of an appointment without reading it. By reading the letter to discover if there was an appointment, the prison officer was in effect finding out whether the initial test was positive or negative, as appointments for a follow up test are only offered to those who have an initial positive test. That is not to say however that the prison officer would become aware whether the petitioner had cancer: the positive test at this stage is merely an indication by the SBSC that further testing is being offered by

the local health board. Many people are found not to have cancer when further tested by the local health board. The factual dispute as to whether or not the Second Letter was read is not relevant to the limited and narrow declarator sought in these proceedings before me and accordingly no evidence was led and the factual conflict was not resolved.

[24] The petitioner made a complaint on prisoner complaint form PCF 1. The complaint was in the following terms:

> "Yesterday evening Mr C Lawrie (RFLM) issued me with an item of mail clearly marked NHS Scotland on the outside of the envelope. The words 'PRIVATE & CONFIDENTIAL' were clearly visible in the 'window'. The RFLM opened and scanned the contents of the letter, stating that he was checking that it did not intimate a medical appointment. The letter contained sensitive personal medical data which I have not consented to disclose to the SPS."

[25] In the box in the complaint form headed "What in your view would resolve the problem?" the petitioner wrote:

> "The RFLM should explain the action of reading a letter from NHS Scotland and offer an assurance that such mail will not be read in future. The Governor should review NHS mail handling procedures to ensure that items of this kind are in future treated as 'privileged' or 'confidential'"

[26] On 16 November 2017 the Internal Complaints Committee rejected the complaint, stating *inter alia*:

> "The ICC would like to inform Mr Beggs that mail from the NHS is not classed as confidential correspondence. Therefore the FLM was following current Scottish Prison Service policy and was correct to open the mail in question."

Security risks relating to prisoner's correspondence

[27] The respondent is engaged in reducing the volume of drugs and other prohibited articles entering prison. Drugs enter prison through correspondence. This can be done for example by enclosing in the envelopes drugs or paper impregnated with drugs. "Confidential correspondence" is not opened and therefore constitutes a security risk. Since

January 2016 there have been more that 1090 drug related finds in correspondence, including confidential correspondence, addressed to prisoners. I was not provided with a breakdown as to how many of these finds were in "confidential correspondence". However, the respondent is justifiably concerned about the "confidential correspondence" system being abused for the smuggling of drugs or either items into prison. I was provided with copies of nine letters which the respondent had sent to solicitors during 2016 and 2017 notifying various solicitors that confidential letters from them to a prisoner had contained drugs. That is not to say the solicitors were involved in the smuggling of drugs, merely that a system of "confidential correspondence" is open to abuse.

[28] The respondent has a particular concern about the re-use of envelopes used for confidential correspondence. Once a prisoner has received legitimate confidential correspondence the used envelope can find its way out of the prison to be sent back in with illegitimate enclosures.

[29] A "double envelope" system between solicitors and prisoners is recommended for confidential correspondence between organisations specified in the list in the 2012 Directions and prisoners. The precise details of the system vary between organisations, but in essence the envelope containing the letter is enclosed within an outer envelope which identifies that the enclosed correspondence is privileged.

Submissions

Submissions for the petitioner

[30] Senior counsel for the petitioner submitted that the failure to include correspondence with SBSC as confidential correspondence within the scope of the prison rules and the 2012 correspondence direction was irrational. "Medical correspondence" was confidential

for the purposes of the Prison Rules, but only in relation to prisoners "certified as having a life-threatening illness" by the prisoner's medical practitioner. The State was under a positive obligation under the European Convention to protect the confidentiality of medical information relating to a patient (*I* v *Finland* (2009) 48 EHRR 740). It was far from clear that in ECHR terms confidentiality attached to medical correspondence with prisoners only in the restricted circumstances envisaged in Rule 56(7) (*Szuluk* v *UK* (2010) 50 EHRR 227). Nor was it obvious why the position should be different in domestic law.

[31] He further submitted that there was no evidence produced by the respondent that the level of risk presented by correspondence from medical sources in general and SBSC in particular posed a material risk. In the absence of evidence that correspondence from a reputable medical source such as SBSC had given rise to an elevated risk of security, the policy was irrational. There was a very real likelihood of prisoners having correspondence with SBSC and a very low likelihood of correspondence with SBSC interfering with the security of prisons.

Respondent's submissions

[32] Counsel for the respondent submitted that the test for irrationality was a high one (*Nottinghamshire County Council* v *Secretary of State for the Environment* [1986] A 240 at page 247, *AXA General Insurance Ltd* v *HMA* [2012] 1 AC 868 at paragraph [97].) The nature of the discretion given to Scottish ministers to make a direction containing a list was broad and unfettered. The 2012 Direction reflects the policy judgement designed to maintain security in prison. The court should show even greater caution than normal in applying the irrationality test where the policy was based in security considerations. The respondent had not exercised its discretion irrationally.

Discussion

Scope of this petition for judicial review

[33] The scope of this judicial review is a narrow one. The only question before me is whether the respondent's refusal to include prisoners' correspondence with the NHS Scottish Bowel Screening Centre as confidential correspondence is unlawful.

[34] It is not necessary to draw a distinction, as has been done in the declarator sought, between confidential correspondence and privileged correspondence, as privileged correspondence is merely a sub-category of confidential correspondence.

Rationality of respondent's policy decision on non-inclusion as confidential correspondence

[35] In considering whether it was irrational not to include correspondence with the Health and Care Professionals Council in the 2012 Direction, Lord Tyre said:

> "[22] As Sir Thomas Bingham MR observed in *R* v *Ministry of Defence Ex p Smith* at [1996] A.B., p.556:
>
> > 'The greater the policy content of a decision and the more remote the subject matter of a decision from ordinary judicial experience, the more hesitant the court must necessarily be in holding a decision to be irrational. That is good law and, like most good law, common sense Where decisions of a policy-laden, esoteric or security-based nature are in issue even greater caution than normal must be shown in applying the [irrationality] test ...'
>
> The decision taken in the present case as to which bodies to include in a direction of the purposes of what is now r.56 was a policy decision taken by the respondents, having regard, on the one hand, to a desire to allow prisoners to correspond on sensitive (but not legally confidential) matters without their mail being opened (though not read) and, on the other hand, to the need to restrict means by which prohibited items such as drugs may enter prisons. It is one with which the court should be slow to interfere unless it is obvious that it is beyond the range of decisions reasonably open to the respondents. In my view the circumstances of the present case do not come close to meeting that test. The assessment of risk of abuse of the privilege with a view to smuggling in prohibited items is a task best carried out by the respondents. I accept that there is a clear and legitimate security reason for

> restricting the number of bodies on the list." *Beggs* v *Scottish Ministers* [2018] CSOH 3; 2018 SLT 199

[36] Whether a correspondence from any particular body ought to be included in the definition of confidential correspondence is an operational matter. Confidential correspondence is a security risk. Drugs and other contraband materials may enter the prison through being included in envelopes containing confidential correspondence. The risk of this is greater than the risk of the sender of confidential correspondence including such contraband. After a genuine confidential letter is received, the envelope may be recycled by prisoners and sent back into the prison containing contraband items. The envelopes from SBSC identify only that they are from the National Health Service. They do not identify that they are from SBSC. I was informed that around 20-25 pieces of NHS correspondence are received each week at HMP Edinburgh. Only some of these would include correspondence from the SBSC. SBSC correspondence is not "double enveloped". These are all factors which the respondent was entitled to take into account in making its operational decision.

[37] The question which then arises is whether the medical nature of the correspondence from SBSC outweighs the security factors to such an extent the respondent's decision is obviously beyond the range of decision reasonably open to the respondent.

[38] The protection of medical data is of fundamental importance to a person's enjoyment of his or her right to family life as guaranteed by article 8 of the European Convention (*I* v *Finland* paragraph (38)). However such protection is not an absolute right. The control of a prisoner's correspondence under the Rules to ensure that it does not contain material which is harmful to prison security or the safety of others or is otherwise of a criminal nature. Such

interference pursues the legitimate aim of "the prevention of disorder or crime" within the meaning of article 8(2) (*Campbell* v *UK* at paragraph 41).

[39] The balance between the protection of medical data and the prevention of disorder or crime was considered by the European Court of Human Rights in *Szuluk*. In that case the European court recognised that some measure of control over a prisoner's correspondence is called for and is not of itself incompatible with the convention (para 45), but found on the facts of the case that the monitoring of the prisoner's medical correspondence did not strike a fair balance. The court placed particular weight on the severity of the prisoner's medical condition, which was life-threatening (para 47). It also placed weight on the factor that allowing the prison medical officer to read the correspondence might lead him to encounter criticism of his own performance (para 49). It found the general security difficulties involved in monitoring correspondence not to be applicable as the correspondence was between one prisoner and one medical specialist (para 52).

[40] The decision in *Szuluk* does not extend to the circumstances of this petition.

[41] The decision in *Szuluk* related to correspondence between a prisoner and a medical specialist treating the prisoner's life-threatening disease. Although bowel cancer is a life-threatening disease, the petitioner did not have it. Even if the initial test had been positive, this would not necessarily have meant that the petitioner had cancer, as further tests would have been required to establish whether this was the case. The further tests would be undertaken not by SBSC but by the local health board. It is for the local health board, not the SBSC, to decide whether there is a diagnosis of cancer, and if so to arrange treatment in conjunction with the patient's GP or the NHS-operated prison medical service. The SBSC would not at any stage become involved in the medical treatment of a prisoner: it merely operates a national programme of initial screening.

[42] Further, unlike the situation in *Szuluk*, the initial bowel cancer screening test result implied no criticism of the prison medical service.

[43] In addition, the scope for a security breach is much greater in the current case than it was in *Szuluk*. In *Szuluk*, there was very little security risk as the correspondence was limited to one named prisoner and the medical specialist treating his particular illness. In the current case there is a significant volume of regular standardised correspondence addressed to prisoners from the SBSC and from other parts of the NHS using similar envelopes. The SBSC writes a standard form letter every two years to all prisoners over the age of 50. It sends the letters in envelopes which give no clear indication that they come from the SBSC and are not easily distinguishable from other NHS envelopes. The security risk of correspondence being used for smuggling is a factor relating to the prevention of disorder or crime which the respondent is entitled to take into account in deciding whether to bring SBSC correspondence within the definition of "confidential correspondence".

[44] The respondent's decision is of a policy laden and of a security driven nature. I agree with Lord Tyre that there is a clear and legitimate security reason for restricting the number of bodies on the list. The article 8 right to the protection of medical data is not an absolute one, but is qualified by security considerations. This case is a clear example of a situation where great caution must be shown by the court in applying the irrationality test.

[45] The SBSC does not provide medical treatment. There is no personal connection between the medical practitioner who is the formal signatory of the letter and the recipient of the letter: the letter is in a standard form which bears to be signed by the head of the SBSC. The SBSC merely operates as the national provider of an initial screening service which may or may not lead to a prisoner receiving medical treatment from the local health board and the prison health service. In operating that service the SBSC sends standardised

letters to a significant proportion of the prison population each year. The letters are addressed to the prisoners at the NHS-operated prison medical service address and not at the prison address. The assessment of the security risk of SBSC correspondence (or re-used SBSC envelopes) being used for smuggling drugs or other items into prison is a task best carried out by the respondent.

[46] For these reasons I hold that the decision of the respondent not to include correspondence with SBSC in the definition of "confidential correspondence" in the Rules has not been demonstrated to be irrational.

Procedures for medical appointments

[47] The petitioner's note of argument narrated that the petitioner understood that correspondence from medical practitioners is opened unless categorised as "medical correspondence" in terms of the Rules, and is read by the prison officer opening the mail in the prisoner's presence to establish whether it contains a medical appointment. The note submitted that if this was correct, it was not an appropriate mode of handling mail concerning medical matters, and that the need to manage prisoner's medical appointments could be done through the prison health centre. The respondent's position was that it was appropriate as it was done at the request of the petitioner: prior to 2013 his correspondence on medical matters had been dealt with by the prison health centre, but as a result of a complaint made by him on the ground that it should be dealt with in the same way as his ordinary correspondence and not diverted to the health centre, the procedure was altered to comply with his wishes.

[48] The petitioner has no declarator nor any averments nor plea in law directed towards this submission. The declarator sought is limited to the SBSC and does not extend to

medical practitioners in general. The declarator is limited to the policy of inclusion of SBSC correspondence within "confidential correspondence" and does not extend to a challenge as to the circumstances in which the Second Letter was opened by a prison officer rather than the prison health service. In my opinion this submission is irrelevant to the current petition.

Order

[49] I refuse the petition and reserve all questions of expenses in the meantime.