

EAST OF ENGLAND AMBULANCE SERVICE NHS TRUST

MEETING: TRUST BOARD

AGENDA ITEM:

DATE: 19th March 2008

PAPER PREPARED BY: Sally Thornton, Director – Finance, ESSA

SUBJECT: POSITION ON ESSA

This paper advises the Trust Board on the current position within ESSA.

1.1 ESSA GOVERNANCE

(i) Agency Board

The twenty ninth meeting of the ESSA Agency Board is scheduled to take place on 20th April 2008.

The customer organisations have requested that the host trust fills the current vacancies on the Agency Board as a matter of urgency.

The Agency Board members required are as follows:

- A nominee of the east of England Strategic Health Authority
- A Chief Executive of an organisation
- A Director of Finance of an organisation
- An Executive Director of an organisation with IM&T responsibility

A draft invite letter has been submitted to the host trust CEO for consideration.

(ii) Resignation of the Director of IM&T

Derek Harris has taken the decision to retire from his post of Director of IM&T at ESSA.

ESSA is sad to report that Derek has taken this decision as he has made a significant contribution to the development of IM&T services in Essex in his four and a half years with us. He has achieved many significant improvements and implemented key developments across the service as is particularly demonstrated in the outcome of the recent independent benchmarking exercise. Derek's last working day with ESSA will be 10th June 2008 and Derek is wished all the best for the future in his retirement.

The Agency Board has the responsibility for making senior appointments under the Governance Arrangements and action will need to be taken quickly to ensure service leadership is maintained.

1.2 FINANCIAL POSITION

ESSA reported a small under spend position as at 29th February 2008, and is projecting a breakeven position for the financial year end. Final figures are due to be submitted to the Host Trust for consolidation on 23rd April 2008.

2. SERVICE ISSUES

2.1 Hosting of ESSA

Following a meeting with the Chief Executive I have been requested to set out for the Trust Board the implications of the Trust Board taking the decision to cease hosting ESSA together with any risks this would pose for the host trust should a new host not be found.

East of England Ambulance Service NHS Trust acts as the Host Organisation for ESSA and as such is the statutory body. It is responsible for:

- Statutory employment of staff
- Legal entity for holding service / supplier contracts
- Audit/health and safety and other legal responsibilities
- Risk monitoring
- Standing Orders, Standing Financial Instructions and Scheme of Delegation

Responsibilities for any residual or other liabilities lie with the customer Organisations.

No premium is charged to customer Organisations by ESSA to cover the risks associated with the delivery of the Services.

Neither ESSA nor the Host Organisation has the facility to build up reserves to mitigate any financial risk.

Accordingly whilst risk management is a key responsibility of the Agency Board risks are underwritten by all customer Organisations. This is particularly relevant to the termination by one or more of the Organisations, the cessation/closure of an entire Service or the cessation/closure of ESSA.

ESSA cannot operate in the absence of a host organisation for the statutory reasons stated above. In the event of the EoEAT taking the decision to cease hosting ESSA in my opinion there are 3 possible outcomes:

- (i) a new host is found
staff would transfer to the new host under TUPE and operations would continue seamlessly. At present ESSA contribute £130K to EoEAT overheads and that income would transfer to the new host.
- (ii) no new host is found and EoEAT do not continue to host
ESSA would cease trading. Any cost consequence associated with the closure would be met by the participating organisations.
- (iii) EoEAT continue
In the absence of any new host EoEAT is instructed by the SHA to continue the hosting arrangement. In these circumstances EoEAT need to be clear about what they would need to continue acting as host.

The Chief Executive of EoEAT has requested a meeting with the Director of Finance for the East of England SHA to discuss the position and the way ahead.

2.2 MEHT Service Cessation

ESSA and MEHT have 3 substantive points of difference on the current draft Memorandum of Understanding where assistance will be required to reach a satisfactory conclusion. It is therefore imperative that the Senior Responsible Officer, Project Manager and Project Board are established as a matter of priority so any disputes / disagreements can be formalised and either resolved by the project structure or submitted for arbitration / resolution by the SHA.

The 3 substantive points of difference are as follows:

1. The issue of residual costs.

The issue of viability and residual costs are in ESSA's opinion separate, whatever the size of the income loss there will always be residual costs because overheads and other infrastructure still remain. The issue of viability is called into question when those residual costs become so significant it isn't viable for the service to continue. It is assumed that MEHT pick up the residual costs (as per the governance framework) and therefore there is no impact on the viability of ESSA. The ESSA 'rule of thumb' 20% viability 'marker' is a rough guide to residual costs being so great as to not be sensible to continue. It has been assumed that before a decision was made by MEHT to leave ESSA MEHT factored into their assessment of residual costs in line with the governance framework, it would have been naïve, at the very least for them to assume nothing and would undermine any analysis for the financial decision. ESSA's stance is that there are residual costs and MEHT will be expected to meet them. MEHT's stance is that they are not expecting to meet any residual costs.

2. The issue of savings from service degradation.

ESSA will not be setting out deliberately to degrade services but there may well be impacts from loss of staff that are beyond our control. Staff will often make their own decisions about leaving in times of change. Realistically ESSA will be 'backfilling' and paying premium rates to cover staff and ESSA are not prepared to agree that MEHT have funds returned if service levels fall, particularly as the predominant reason for any service fluctuations will be the decision by MEHT. It is unrealistic to expect that there would be no service fluctuation. This wouldn't just apply to this transfer but generally to any. This therefore would set a dangerous precedent and would get used as a precedent by other people for other purposes.

3. The issue of costs for 'time spent' on this transfer.

It is ESSA's approach that any cost involved in this transfer will need to be met by MEHT. It is not something usually undertaken and is not reasonably foreseeable as being required. We therefore intend to maintain a stance that MEHT need to meet any and all costs as it is difficult to believe that there was no 'cost of transfer' factored into the financial evaluation of the service change.

A meeting had been scheduled for 27.2.08 but was unfortunately cancelled by MEHT at the last minute. In the absence of a re-arranged date ESSA has written to MEHT proposing the following immediate action:

1. That Caroline Russell, Director of Finance, NEE PCT is approached to be SRO.
2. That Les Sweetman, Director of IM&T, ME PCT is approached to be the IT Director on the transition project board.
3. The first Project Board Meeting takes place before the end of March 2008.
4. A proposed agenda for the first Project Board Meeting.
5. MEHT advise the process for agreement of transfer costs as a matter of urgency to enable implemented work streams to continue.

It is ESSA's view that they are taking a reasonable approach to matters and in line with the original agency board agreement. ESSA still awaits a formal response from MEHT.

3. CONCLUSION

The Board is asked to note the contents of the report