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To: Health and Wellbeing Board – 28th September 2011

Subject: Dover District Council (DDC) early implementer Health
and Wellbeing Board (HWB)

Classification: Unrestricted

Summary: Dover District Council has been awarded early implementer status for a Health and Wellbeing Board by the Department of Health, as it seeks to identify best practice for HWB's operating in two tier local government areas. This paper discusses how the Dover HWB might best be established to compliment and support the relative roles that District and County level HWB might play whilst in shadow form.

1. Background:

- 1.1 The Department of Health has identified three county authorities to act as early implementers for Health and Wellbeing Boards (HWB) where they have also granted early implementer status to district authorities within the county area. These are:
- Hertfordshire County Council & St Albans City Council
 - Suffolk County Council & Great Yarmouth District Council
 - Kent County Council & Dover District Council
- 1.2 The decision to award early implementer status references the important role that district authorities have to play in helping to improve the health and wellbeing of local communities, especially given the clear links between the statutory services provided by district authorities and NHS and public health provision. In particular:
- Waste Collection
 - Environmental health
 - Housing services
 - Leisure services
 - Planning policy and enforcement
 - Licensing policy and enforcement
- 1.3 The need to reflect the contribution and role of district authorities has been reflected by the appointment of three District representatives on the shadow Kent HWB. However, with diverse populations and varying health needs across localities, the ability of a single strategic HWB

operating at county level being able to focus on very local and specific needs might prove difficult. Some form of sub-county architecture for HWBs might therefore be necessary.

- 1.4 The principle challenge to the establishment of district-level HWB is that the Health and Social Care Bill is clear that the statutory responsibilities of Health and Wellbeing Boards lie with upper-tier authorities. There is no specific role or responsibilities set out in the current Bill (or as yet any subsequent Department of Health guidance) for lower tier authorities beyond any that may be delegated by a County HWB or delivered through any joint arrangements agreed to by both County and District authorities within the legislative framework local for local government (principally the 1972 Local Government Act).
- 1.5 This raises the simple, but challenging question of what specific responsibilities District HWB might be responsible for and how they might go about discharging those duties. These are the issues that need to be worked through during the shadow period of operation ahead of the Kent HWB taking on statutory responsibilities in April 2013. So whilst the establishment of a Dover HWB as an early implementer is a matter for Dover DC, the extent to which it is formally involved in the specific functions of HWB as set out in the Health and Social Care Bill (in both pre and post shadow form) is de-facto also a matter for shadow Kent HWB. Neither should a Dover HWB be seen as setting a precedent that all Districts might have a HWB. Any sub-county architecture for the HWB will depend on local appetite, identified need in the local area and that a clearly defined and appropriate role being agreed by all relevant parties.
- 1.6 Dover DC has not yet formally constituted a HWB in the same way as KCC (i.e. as a formal committee of the Council) and a dialogue between the two authorities and other partners has been opened through an ongoing programme of facilitated workshops supported by Health & Social Care Partnerships South East (which is charged by the Department of Health with supporting the development of HWB in the South East).
- 1.7 However, the need to constitute some form of Dover HWB is necessary if an adequate period of operation is to occur before evaluating and recommending an appropriate sub-county architecture for the Kent HWB ahead of April 2013 (and potentially reporting issues/lobbying DoH for changes to guidance). Moreover, whilst the County HWB and Dover HWB might operate in shadow form through to April 2013, it seems necessary to pilot a model robust enough to continue in operation (subject to evaluation) once statutory functions for HWBs are in place.

2. Criteria against which to consider options:

- 2.1 There are a number of options in which the Dover HWB can be established, however, in considering which model might be suitable;

there are a number of criteria that should be considered:

- **Delegation of Function:** The County HWB as an ordinary committee of the County Council has the power to delegate functions to other committees or authorities, but these must be properly constituted legal bodies – namely another committee or sub-committee of the county council or another local authority. If the County HWB wishes to consider the possibility of delegation of function, then the Dover HWB needs to be constituted in such a way to allow this.
- **Ease of Establishment:** The need for any Dover HWB to be established quickly rather than go through protracted approval process, especially whilst in HWB are running in shadow form and do not yet have statutory responsibilities.
- **Flexibility:** The running of the shadow HWBs ahead of them taking on statutory responsibilities is designed to be a learning exercise about how the HWB's can best operate at the strategic and local level. Any model for District Level HWB should be as flexible as possible, to allow room for innovation and variation in the role and need for HWB's across different localities.
- **Transferability:** As early implementers, both the KCC and DCC are seeking to identify the best possible working model for HWB at the county and district level. The aim should be for any working model at the shadow stage to potentially be transferable to other District council areas across Kent (and potentially other two tier county areas).

3. Assessment of preferred option:

- 3.1 Given the above criteria, in particular the issue of delegation of function, it seems clear that establishing Dover HWB on an informal or partnership basis, either through the Local Strategic Partnership or the new Locality Board should be ruled out given that neither option would allow for the potential delegation of function from the Kent HWB if it were agreed by all parties.
- 3.2 This leaves a number of options open:
 - Joint committee under S.103 of the Local Government Act 1972
 - Committee of Dover District Council
 - Sub-committee of the Kent HWB
- 3.3 Whilst the joint committee option remains open, the practicality is that this would require a complicated approval process involving formal resolutions of full meetings of both councils. It is also likely to require separate and formal arrangements for scrutiny of the joint committee to be in place before approval can be given, which in past experience of establishing joint committees, can be long and protracted process to

gain agreement and approval. Dover DC can establish a Health and Wellbeing Board as a full committee of the council, which might be suitable whilst in shadow form, but the practical arrangement for any delegation of functions between the Kent HWB and Dover HWB would then have to be agreed by both councils on a case-by-case basis and then approved separately through both councils decision making agreements, which would be clunky and inflexible when flexibility is a key criteria.

- 3.4 Establishing the Dover HWB as a sub-committee of the Kent HWB provides a number of advantages. Once established (and there would still be some technical details to confirm) decisions about the relationship between the Kent Board and Dover Board would be a matter for Board itself, it would also be possible to quickly rethink and redefine the role and responsibilities of the sub-committee (and perhaps even geographic area covered) as events dictate and relationships emerge as the NHS reforms develop further. It would allow for delegation of function more easily than the other formal options available, but most importantly perhaps, it would clearly link the two tiers of HWB together within a single governance structure, providing a robust relationship between the two. Informal discussions with Dover DC suggest that they would support a sub-committee model at the shadow stage.

4. Recommendations:

4.1 The HWB is asked to:

- a) Invite Dover DC to agree its early implementer HWB should be a sub-committee of the countywide HWB for the duration of the period the County HWB is operating in shadow form (i.e. until April 2013).
- b) Agree that the Director of Public Health (as the lead officer for health reform), in consultation with the Director of Law and Governance, liaise with Dover DC and agree terms of reference, membership and a Memorandum of Understanding (MOU) over the practical operation of the Dover HWB.

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