Title: Health & Social Care Advisory Service (HASCAS) Governance Framework

Author: Mrs G Lewis-Parry, Board Secretary and Dr A Johnstone (HASCAS)

Responsible Director: Mr S Dean, Interim Chief Executive

Summary of Key Issues: The Health Board has commissioned HASCAS to provide the lead independent investigator role in relation to the complaints, concerns and professional regulation & employment issues arising from the significant failings in care on Tawel Fan ward. The papers attached set out the terms of reference for this work and the underpinning governance arrangements to ensure that the Board is provided with the appropriate oversight and assurance.

Action Required By Board: To: (Please tick all that apply. This section should match the recommendations made in the paper)

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<th>Note</th>
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<td>Endorse</td>
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<td>Ratify</td>
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<td>Approve</td>
<td>✓ Terms of reference and governance arrangements</td>
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Key Impacts: (Please provide a short summary against all that apply)

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<tr>
<th>Corporate Objective</th>
<th>Good governance</th>
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<tr>
<td>Finance</td>
<td>HASCAS is a registered charity and the Oversight Panel will ensure value for money</td>
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<td>Quality Impact Assessment</td>
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<td>Health and Care Standards</td>
<td>Governance, Leadership &amp; Accountability</td>
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<td>Equalities, Diversity &amp; Human Rights</td>
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<td>Risk &amp; Assurance</td>
<td>Corporate Risk CRR22 - mental health services and CRR27 – governance arrangements</td>
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Disclosure: Betsi Cadwaladr University Health Board is the operational name of Betsi Cadwaladr University Local Health Board
Terms of Reference between
Betsi Cadwaladr University Health Board and Health and Social Care Advisory Service (HASCAS)

Terms of Reference

Betsi Cadwaladr University Health Board, has commissioned HASCAS to provide the lead independent investigator role in relation to the complaints, concerns and disciplinary matters arising from the investigation into the failings of care on Tawel Fan Ward in the Ablett Unit at Ysbyty Glan Clwyd.

The Investigation

Remit

To provide independent and comprehensive investigation management and triangulation of all previous investigation material and evidence which will include:

- Police investigation statements and written evidence
- External investigation undertaken by Mrs Donna Ockenden and written evidence collated and sent through to the Police and published report.
- Complaint files and correspondence
- Internal investigation commenced and suspended when Police investigation commenced
- Mortality review and report
- Any internal audit or external report/review or other information held by the Health Board which is deemed relevant
- Provide family point of contact where additional information to support concerns has and is being provided, meeting with families who have made contact and collate their evidence.

Purpose

With the evidence available, triangulate all sources of Information which will enable the evidence to be collated into a comprehensive public facing document (redacted) and an internal document (un-redacted) and additionally provided into two streams of evidence for the purposes of:

(1) Complaints Management

- Collated into patient specific evidence so that a comprehensive summary can be made in response to each formal complaint that will stand up to external scrutiny and enable each family to be confident that all information has been used in the response. Where health care issues have been identified or harm caused, the Putting Things Right (PTR) regulations are considered with regard to Regulation 24, 26 and 33 (Harm and Causation):-

(2) Professional Regulation and Employment policies and procedures
• Collated into staff specific evidence, so that the information which needs to be considered where omissions in professional practice and breaches in clinical standards are evidenced are individualised into summary evidence which can be used as Statements of Case if appropriate for consideration under BCUHB employment policies and where necessary onward referral to the relevant regulatory bodies for example the General Medical Council (GMC) and Nursing & Midwifery Council (NMC). In addition consideration must be given to the notification and or referral to Disclosure and Barring Service (DBS) / Independent Safeguarding Authority (ISA).

Escalation
If at any time new information is identified the appropriate action must be taken to ensure escalation in line with the relevant policies and procedures.

Timescales
Appendix 2 sets out the steps and stages that the HASCAS investigation will follow to complete the work program which has been set out in 5 stages.
First Stage: August/September 2015
Second Stage: September/October 2015
Third Stage: October/November 2015
Forth Stage: December/January 2016
Fifth Stage: January/February 2016

Reporting
In keeping with other large and complex NHS investigations a formal governance assurance process has been established for the Tawel Fan HASCAS Investigation, the details of the Governance Framework are set out in Appendix 3.

Team and Resources
The Executive Director of Workforce and Organisational Development will be the Lead Executive Director on behalf of the Board overseeing these arrangements. This role will be supported by a team of senior managers who will provide the required Input and the professional expertise to contribute to the work of HASCAS who will lead the Investigation.
Appendix One

Health and Social Care Advisory Service

Investigation Assurance Proforma

To support governance assurance arrangements

Tawel Fan Investigation
These pro forma standards are written to provide prompts to the Investigators/Oversight Panel during the course of the Investigation/Review. The Investigation Team will then present this pro forma with the comments section completed at key junctures during the investigation in order to provide assurance for the BCU Health Board. The pro forma acts as:
- a quality standards prompt document;
- an ongoing commentary during the process to assist project management;
- an audit tool.

The pro forma can be used by all parties to ensure a fit for purpose process is adopted.

<table>
<thead>
<tr>
<th>Quality Standard</th>
<th>Met ✓</th>
<th>Partially Met ?</th>
<th>Unmet ✗</th>
<th>Comments on Progress (these may include a robust appraisal of the criteria, and may include any unusual or atypical circumstances relating to the item)</th>
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</table>
| **1. Inception of Investigation Process** | | | | Terms of Reference are in existence and have been agreed jointly by the BCU Health Board and other Stakeholders as considered appropriate. Families/carers should also be consulted if at all possible. The Terms of Reference should include:
- the scope of Investigation and report;
- multi agency/stakeholder dimensions;
- future public arenas for the report to exist within;
- communications strategy;
- review of organisational contextual factors;
- assurance processes. |
- The Investigation will be managed in keeping with Wales and BCU Health Board best practice guidance. The Investigation Team will also work to BCU Health Board Human Resource management processes and will adhere to recognised good practice guidance as required by staff side representation and professional and awarding bodies’ expectation.

- The sponsor commissioning the Investigation is of sufficient seniority and has experience in the setting up of this kind of project. Consideration should be given at this stage as to whether the Investigation needs to be multi-agency in nature and if so how this is to be best achieved.

- The composition of the overarching Oversight Panel has the appropriate Board delegated accountability and works to key quality performance indicators.

- Composition of the Investigation Team is selected in accordance with the specific requirements of the case in hand. Consideration is given to the presence of external members of Investigation Team.

- Composition of the Silver Command Group (secretariat) is selected in accordance with the specific requirements of the case in hand.

### 2. Conduct of the Investigation

- The Investigation Team will be appropriately
<table>
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<th>Experienced in both investigation techniques and processes and also have the required investigation and project management experience to examine the case.</th>
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<tr>
<td>The Investigation Team to be skilled in interviewing techniques and the requirements of managing secondary trauma to both families and witnesses.</td>
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<td>Sufficient time and resource support will be given to the Investigation Team by BCUHB and any other agencies involved.</td>
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<td>All documents developed and examined in the course of the Investigation will be paginated and archived in accordance with NHS best practice guidance. This will ensure that any external process such as an Inquest, Industrial Tribunal, Public Inquiry etc., will receive an orderly and professional response from the Trust.</td>
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<td>The Investigation Chair will have the appropriate experience of leading investigations and of report authoring.</td>
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<tr>
<td>The Investigation Team comprises an acceptable degree of independence and the roles of team members are agreed.</td>
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<tr>
<td>Potential conflicts of interest between the BCU Health Board and Oversight Panel and Investigation/review teams are acknowledged and</td>
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Contracting and instruction arrangements are in place and confidentiality agreements and understandings are in place.

All relevant partner agencies (e.g. Police, Local Authorities, and Community Health Councils etc) will be included throughout the Investigation process. This to include:
  - ongoing development of the Terms of Reference;
  - joint investigation procedures where indicated;
  - information sharing protocols;
  - partnership working in the development of recommendations where indicated;
  - dissemination of draft/ final report as indicated.

Relevant regulatory and public bodies (e.g. NMC, GMC etc) will be kept involved and communicated with as deemed appropriate.

The Investigation will work to a detailed project plan that identifies all key tasks and project milestones to ensure a timely and rigorous process.

Helpline facilities and calls for witnesses/families to be ongoing. All calls should be logged. All individuals coming forward deemed to be a priority should be identified and managed with immediate effect.
- A clear process should be in place from a call being made to the point of interview/investigation.

- The Investigation will work to develop the Investigation risk register and to flag up and, mitigate against, any areas of risk pertinent to the work in hand.

### 3. Family Support

- A full briefing regarding the Investigation will be given to the victims/families/carers etc.

- A full briefing and consultation involving the victims/families/Carers etc. will be given with regards to the Investigation process. This to include:
  - the assignment of a named senior BCUHB officer for liaison;
  - opportunities for briefing meetings and correspondence;
  - the sharing of a full, timed plan that sets out the process, the duration of the process, and methodology;
  - formal offers of support, such as counselling, will be made to the families/carers from the Health Board. It must be noted that in cases where extreme trauma has occurred specialist counselling inputs will be required;
  - it must be noted that when victims/families/carers have been exposed to a traumatic set of circumstances specialised
trauma intervention may be required.

- Data Protection issues and informed consent will be obtained from victims/families/carers with regards to information given by them/or about them which may enter the public domain.

- Routine scheduled briefings regarding the Investigation process will be made available to victims/families/carers throughout the Investigation process. Individuals should not have to wait for information unduly or be placed in a position where they have to ‘chase’ BCUHB for a progress report.

- All letters and information provided to victims/families/carers will be provided in accordance with an agreed letter and briefing templates as developed by BCUHB and HASCAS.

- The key findings of the Investigation Report and its recommendations will be shared fully and sensitively with the victims/families/carers on completion of the Investigation.

4. Support of Staff

- A full briefing will be given to all staff involved in the serious untoward incident with regard to the incident and the planned Investigation process.

- A named senior BCUHB officer will be assigned for
The briefings and processes implemented for the Investigation will be fully compliant with the Scott and Salmon principles. As a minimum staff can expect:
- a letter detailing the involvement required from the witness as soon as possible that provides a reasonable interval for preparation;
- copies of clinical records/supervised reading of the original records will be made possible if required;
- support with the writing of witness statements;
- a transcription of all interviews will be made and witnesses will have an opportunity to make amendments and corrections as necessary;
- all witnesses will get an opportunity to see the draft report for factual accuracy checking prior to its being circulated outside the Internal Investigation Team;
- all witnesses who are identified as requiring remedial action to be taken will be informed in writing in a timely manner.

Counselling and support for staff will be made available. It must be noted that when staff have been exposed to a traumatic set of circumstances specialised trauma intervention may be required.
- All letters and information provided to witnesses will be provided in accordance with the agreed letter and briefing templates as developed by HASCAS.

- The key findings of the Investigation Report will be shared fully and robustly with current BCUHB staff. This to include:
  - 1:1 feedback if individual performance merits it;
  - team feedback about lessons learned and recommendation implementation;
  - Organisation-wide feedback about lessons learned and recommendation implementation;
  - information about publication processes and next stages.

- The key findings of the Investigation Report will be shared fully and robustly with former BCUHB staff/other witnesses. This to include:
  - 1:1 feedback if individual performance merits it;
  - if no performance issues are identified feedback in writing will be given;
  - information about publication processes and next stages.

BCUHB will hold briefing workshop events for witnesses if required at the end of the process to set out information and to provide information about the lessons for learning.
5. Methodology

- A systematic approach to the Investigation, such as root cause analysis (RCA), will be used.

  - The seven sentinel points in the root cause analysis process will be included in the Investigation methodology:
    - define and identify the key incident/issues;
    - identify data and evidence;
    - develop the process - tools - timeline - causal factors;
    - identify possible root causes;
    - identify gaps in data - evidence - interviews;
    - develop recommendations/action plan;
    - implement recommendations.

Investigation RCA methodology may require a degree of adaptation to meet the needs of this specific Investigation. This to be agreed and negotiated the Oversight Panel and BCUHB.

- There will be evidence that the investigation process worked with facts (and not assumptions) where possible, and that judgements and recommendations were based upon these.

- Appropriate legal, clinical and process advice will be taken at every stage of the Investigation as required.

- Appropriate recordings of witness statements,
interviews and Investigation Team deliberations will be made. The documentation produced will be paginated and maintained in an archive in line with BCUHB best practice guidelines.

- The investigation process will meet the terms and conditions set out within the relevant BCUHB policies and process guidance.

### 6. Specific Investigation Targets

- Identification and retrieval of documents - where/when/how.
- Checks on discovery process - archives, site search etc.
- Interviews need to be able to identify in advance whether they about an allegation or context issue.
- Plan for parallel running of specific investigations & general issues & communications between teams.
- Proper briefings and Terms of Reference are drafted for out-sourced work (e.g. review of charitable funds).
- Process for recording methodology, decisions and the reasons behind them.
- Auditing of own process.
- Document selection processes must be clear and explicit. Rationales must be given for documents either not read or not utilised by the Investigation.
- Scanning criteria for documentation to be set by the Investigation Team.
- Process for documentary review to be set by the
panel, clear proforma and methodology to be
developed. Criteria and process for this to be clear
and explicit.
- Specific allegations to be logged and individual
  complaint investigations started.
- Plans for review of transcripts to be made (data
  processing and thematic review placement).
- Communications between panel members re
  emerging issues and evidence. Feedback into
  interview preparation.
- Process of liaison/checking with other reviews.
- Adequate review of records.

### 7. Presentation of Report

**Final Report: Questions to ask;**
- Does the title reflect the report content and
  findings?
- Is the report dated, with the date of the
  incident?
- Does the report address the Terms of
  Reference?
- Does the report compile and summarise all
  the information received?
- Has all personal data relating to clients or
  patients been checked for accuracy?
- Does the report address the health and
  safety issues of the location?
- Are appropriate recommendations drawn
  from a clear evidence base?
- Have any relevant recommendations from
other previous incidents been taken into account?
  o Are the recommendations numbered, explicit and unambiguous?
  o Is the language simple and clear for the varied readership?
  o Is there evidence of any validation of the report content and findings (e.g. use of any internal or external Quality Assurance processes, clinical standards benchmarking e.g. policy audit etc.)?

- The Report will be developed in keeping with the template agreed by BCUHB and the Oversight Panel.

8. Acceptance of the Investigation Report

This will need to be negotiated and agreed by BCUHB with the assurance of the Oversight Panel (assurance of process).


- An action plan will be developed as part of the report ratification process in keeping with BCUHB policy.

10. Clinical Information Regarding Service Users
<table>
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<th>and Data protection Act issues</th>
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<tr>
<td>• The privacy and confidentiality of the individual service user has to be considered at all times. BCUHB should be mindful that this Investigation report/s will/may enter the public domain (in whole or in part) commissioners must ensure that:</td>
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<td>o consent issues have been considered;</td>
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<td>o service user anonymity is protected;</td>
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<tr>
<td>o private and confidential information about victims, carers and family members is treated sensitively and with their full permission;</td>
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<td>o information about service users must be balanced against the need to learn lessons and service users’ right to privacy.</td>
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Appendix 2

Health and Social Care Advisory Service

Revised Scoping: Next Steps

1. First Stage: August/September 2015

In order to progress the HASCAS Investigation the following steps and stages should be undertaken.

1. The terms of reference (ToR) for the HASCAS Investigation have been developed and will be co-signed by Androulla Johnstone and Simon Dean following Board approval. The link with the Regional Safeguarding Adult Board (RSAB) is set out in Appendix 3 (the Governance Framework).

2. Governance processes for the HASCAS investigation should be established (see attached governance framework paper appendix 3).

3. Governance processes must ensure that no disclosures are made in an inappropriate manner during the course of the Investigation. HASCAS will require a formal, pre-agreed process. No matters concerning the HASCAS investigation will be shared with any stakeholder without the prior agreement of HASCAS. Action: BCU with support from HASCAS.

4. Discussions about any potential investigation subject matter pertinent to the content and outcome of any future report findings should cease at Board meetings and other public fora until the HASCAS Investigation is completed. Discussion in public regarding the potential content and outcome of the HASCAS investigation, complaints under review, or other pertinent Investigation issues could undermine the process. Action: BCU.

5. BCU and HASCAS to establish the final numbers of families to be included in the review. Action: BCU with support from HASCAS.

6. Mediation and compensation/liability processes (Putting Things Right Regulations) to be managed in parallel with the investigation process. Action: BCU with support from HASCAS.

7. Contacts to be made with NMC/GMC in relation to evidence requirements. Action: HASCAS.

8. Contacts to be made with senior staff side representatives to agree expectations and process. Action: HASCAS.
9. Meetings to be held with Community Health Council for background and context. **Action:** HASCAS.

10. Secondary literature review and context information to be gathered to underpin the overarching lessons for learning report. **Action:** HASCAS.

11. Report templates to be developed 1) reports for families 2) reports for disciplinary 3) overarching lessons for learning report. **Action:** HASCAS.

12. BCU is required to send a complete set of documentation to HASCAS – this is currently underway. Once all of the documentation is delivered an archiving system will be established, files set up and pagination completed. This stage will also include a gap analysis of any documentation deemed by the HASCAS team to be incomplete. **Action:** BCU.

13. Establishment of spreadsheet data for families, patients and witnesses (to ensure the correct families and addresses/contact details are obtained). **Action:** HASCAS.

14. Families Briefing workshop dates to be identified and workshop developed with briefing packs. **Action:** HASCAS.

15. Advocacy and counselling services to be established ready for referral if required (for both families and staff). **This to be a priority for immediate action. Action:** BCU.

16. Family interview scheduling to commence. **Action:** HASCAS.

17. A standardised information and contact proforma to be agreed and used by all parties. **Action:** HASCAS.

18. Ensure appropriate lines of reporting to Healthcare Inspectorate Wales. **Action** BCU.

Key Issues: at present a great deal of the Investigation underpinning work has yet to be undertaken. This will add to the timescales required for the project and also to the project capacity planning.

2. Second Stage: September/October 2015

- Documentary review. **Action:** HASCAS
- Complaints grid: dates; staffing; peaks; trends. **Action:** HASCAS.
- Liaise with the Office of the Associate Director of Safeguarding to ensure all relevant POVA referrals and investigations are included. **Action:** BCU with support from HASCAS.
- Ongoing development of the archive. **Action** HASCAS.
- Families briefing workshops (x 2 to ensure as many people as possible can attend). **Action** HASCAS with support from BCU.
• Individual patient timeline development. **Action**: HASCAS.
• Development of core ToR for complaints. **Action**: HASCAS.
• Formal witness letters to be sent to each family/family member. **Action**: HASCAS with support from BCU.

### 3. Third Stage: October/November 2015

• Initial meeting with each family to establish bespoke ToR and to ensure all issues are understood. The timeline to be used as part of a transparent investigation/triangulation process at this stage. **Action**: HASCAS.
• Second meeting with families to involve them as formal witnesses to the investigation. **Action**: HASCAS.
• Formal witness (staff/staff side) briefing workshops to be offered. Briefing packs to be provided. **Action**: HASCAS with support from BCU.
• Formal interview letters to be sent to each clinical witness/manager. **Action**: HASCAS with support from BCU.
• Clinical witness/manager interviews to be scheduled and conducted. **Action**: HASCAS with support from BCU.
• Full Scott and Salmon compliant processes to be adhered to in case individual reports end up in the public domain. **Action**: HASCAS with support from BCU.

### 4. Fourth Stage: December/January 2016

• Publication planning. **Action**: BCU with support from HASCAS.
• Alignment with phase two Ockenden review. **Action**: BCU with support from HASCAS.
• Transcript factual accuracy phase for families and witnesses. **Action**: HASCAS.
• Individual family investigation reports to be written. **Action**: HASCAS.
• Factual accuracy checking process for BCU and staff. **Action**: HASCAS.
• Synopsis and factual accuracy process for families. **Action**: HASCAS.
• Draft overarching report to be developed. **Action**: HASCAS.
• Full investigation debrief for BCU Board. Feedback to each individual family regarding the content of their individual report. **Action**: HASCAS with support from BCU.
• Preparation of recommendations relating to disciplinary actions. **Action**: HASCAS with support from BCU.
• Preparation of report for disciplinary actions. **Action**: HASCAS with support from BCU.
• Full Scott and Salmon compliant processes to be adhered to in case individual reports end up in the public domain. **Action**: HASCAS with support from BCU.
• Anonymisation key to be developed. **Action**: HASCAS.
• RCA lessons for learning event – for recommendation development and next steps forward. **Action**: HASCAS with support from BCU.
5. Fifth Stage: January/February 2016

- Overarching lessons for learning report to be written – Scott and Salmon compliant processes to be applied. **Action**: HASCAS with support from BCU.
Appendix 3

Health and Social Care Advisory Service

Governance Framework for Tawel Fan Investigation and Review Processes

1. Purpose of the Governance Arrangements.

1.1. In keeping with other large and complex NHS Investigations conducted over the past few years a formal governance assurance process will be established for the Tawel Fan HASCAS Investigation. This will ensure:
   - independent oversight and quality assurance for the BCU Health Board;
   - value for money monitoring;
   - alignment and coordination between agencies/services and the HASCAS Investigation;
   - a robust audit trail which may be required for any potential future investigations/inquiries (e.g. by the NMC, GMC, Industrial Tribunals, Courts, Police etc.).
   - a robust audit trail so that the investigation/review process can reasonably be expected to withstand any potential judicial review process;
   - accountability, openness and transparency in the public interest.

2. Oversight Panel

2.1. An Oversight Panel will be established as part of the governance arrangements to ensure the above. The Oversight Panel should provide assurance to the BCU Board. To this end the panel will comprise:
   - the Executive Director of Workforce and Organisational Development
   - an experienced member of the Regional Safeguarding Adult Board;
   - an external member.

Independent legal advice will also be provided to the oversight panel.

2.2. It is proposed that the senior lead for the Tawel Fan response team is in attendance at all Oversight Panel meetings (with the lead investigator/reviewer) in order to act as a link between the assurance process and the operational management and coordination of the BCU Silver Command Group.

2.3. The key roles and responsibilities of the Oversight Panel would be:
   - to ensure a probity firewall is in place between the HASCAS investigation and BCUB during the course of the active phase of the work;
   - to ensure all investigation processes adhere to best practice guidance (see investigation assurance proforma);
   - to provide support and assistance to the investigation/review teams;
   - to ensure value for money and an avoidance of omission or duplication;
   - to ensure the public interest is upheld;
   - to ensure interagency working is facilitated;
to ensure the best interests of families and staff are maintained in an objective and sensitive manner in accordance with national best practice expectation.

2.4. It would **not** be the role of the Oversight Panel to:
- advise on the content of the investigation/review;
- to persuade or command the investigation/review to avoid fulfilling the Terms of Reference (ToR).

2.5. It **would** be the role of the Oversight Panel to:
- report to and assure the BCUHB on all aspects of process, progress and costings;
- to work with the investigation/review to ensure that all governance matters are resolved;
- to advise on any amendments to ToR as required;
- to approve and consult with the Investigation/review regarding recommendations (the investigation/review teams will still retain editorial control).

### 3. Reporting Responsibilities

3.1. The investigation/review teams will report progress against the Investigation Assurance Proforma (see appendix one) on a regular basis (timings and regularity to be agreed) so that the Boards can be briefed in an independent manner.

3.2. The governance process can be represented in simple diagrammatic form: