The Charity Commission for England and Wales
1 Drummond Gate
Pimlico
London
SW1V 2QQ

8th March 2017

By email

Dear Charity Commission,

Annual return for 2017 – information collected from charities

We are writing jointly as three umbrella bodies representing our members on important aspects of the annual return. Each organisation has submitted a response individually to the online consultation. We are writing to raise a number of overarching concerns which we share and which are set out in this letter.

About the Association of Charitable Foundations (ACF)

ACF is the membership association for foundations and charitable grant-making trusts in the United Kingdom. ACF's priorities include enabling trusts and foundations to achieve good practice in grant-making and helping them to be effective in the many ways that they use their resources for charitable purposes.

ACF has over 320 members. They range in size from large foundations with paid staff distributing over £20 million a year each, to small often local volunteer-run trusts distributing less than £100,000 a year. Together they give over £1.7 billion a year to a wide range of charitable causes.

About National Council for Voluntary Organisations (NCVO)

NCVO is the largest membership body of the voluntary sector and volunteering in England, with over 12,000 member organisations.

We champion the voluntary sector and volunteering to enable them to make a bigger difference. We do this by connecting, representing and supporting voluntary action, from small volunteer led community groups to household name charities.

About Charity Finance Group

The purpose of Charity Finance Group (CFG) is to develop a financially-confident, dynamic and trustworthy charity sector.

Our 1,400 members are charity finance professionals, who between them manage £19bn of funds. We work with our members to: inspire and nurture leadership; drive up standards; create a better and fairer operating environment; identify best practice and share knowledge.

Ultimately, we strive to equip charities with the knowledge, skills and conditions they need to ensure that every pound works even harder, achieving a greater impact for even more beneficiaries.

This response

This joint letter accompanies the separate responses submitted by each organisation. Building on the specific answers given, we would like to highlight some overarching concerns that we share about some of the proposed changes to the annual return.

The annual return is a useful and reliable source of clarity and information for the Charity Commission for England and Wales as regulator of charities, for charities themselves, and for the public in understanding how charities use their resources to deliver public benefit.

We have always advocated for the regulation of charities to be simple and proportionate. This also applies to the annual return, which should strike the right balance between the burden placed on individual charities seeking to comply and the need for transparency. We agree that this has become greater, and that it is important to ensure that the right information is provided and made publicly available.

From a funders' perspective, foundations have a strong interest in the information collected through the annual return. The annual return enables foundations to have a good overview of a charity's work for public benefit and to assess a charity's governance, ensuring that foundations make good decisions and are able to achieve their own charitable objectives. Foundations are also charities themselves, meaning that they too submit an annual return and therefore have a further interest in its content and structure.

We are grateful for this opportunity to comment on the Commission's plans and we hope that the Commission takes into account the importance of the annual return for the charities we represent.

Overarching comments

The Commission has helpfully outlined the need to **minimise the burden** of regulation on charities, and we welcome this ambition. However we urge the Commission to consider particularly how the proposed changes may impact on charities with limited resources, especially in relation to their use of digital technology. Many charities are entirely led by volunteers undertaking compliance at home, and even many of those that have some professional assistance have limited staff and office capacity. We would encourage the Commission to consider how the impact of its regulatory changes can be minimised for such charities, and would like to work with its officials to ensure this can be achieved.

We would also urge the Commission to consider the proposed changes in the context of the **reporting serious incidents** guidance that has recently been reviewed. This already requires charities that experience significant damage to their finances, property, work, beneficiaries or reputation to report it as a serious incident immediately, notifying the Commission and allowing it to assess the risk. It is not clear where these proposed changes to the annual return stand in relation to this existing requirement. As the two measures serve different purposes, the information required should be sufficiently different so as not to double the regulatory burden on charities.

The vast majority of charities are **well governed** and focused on their mission, and therefore readily comply with regulatory requirements. The annual reporting should enable them, through the register, to tell their story clearly and directly to the public. We therefore welcome the Commission's renewed emphasis this year on enabling charities, and believe the annual return can be part of this rather than being seen as a further regulatory burden.

A concern that we have in this regard is about the **risk priorities**. We, and some of our members (particularly ACF's members as funders of charities), share many of the Commission's concerns regarding the governance of charities, in that we want them to be well run, using their resources prudently and solely in pursuit of their charitable objectives, and ensuring that charities working with vulnerable client groups have adequate safeguarding in place. However the risk priorities identified by the Commission for the annual return do not appear to reflect the gravity and frequency of what is happening in its compliance work. For example, *Tackling Abuse and Mismanagement 2015 to 2016* states that there were 227 new operational compliance cases opened relating to financial abuse, 163 relating to safeguarding, and only 8 relating to terrorism and extremism. By framing the annual return around the risk priorities, the reality of the risks facing charities may be exaggerated, and it will be hard for charities to assess the relative weightiness of each factor in their own context. It would be helpful for organisations to understand the basis on which the Commission has taken a different approach in the annual return, so they can better identify the risks they face and meet their requirements.

This leads us on to the related issue of **transparency**. If charities do not understand or identify with the Commission's risk priorities, they may find some questions asked in the annual return unnecessary or uninvited, and not see the benefit of sharing such information. Transparency is highly important for our organisations, and we strive to meet the public's expectations and high standards. So in pursuing any measures for greater transparency, the Commission may wish to offer some commentary explaining what purpose the information requested serves and how it will be used, so as to make the link more explicit to the public interest.

Allied to that, most charities are keen to be transparent and to comply with their regulatory requirements. However feedback from CFG's members on the customisation option in the SORP has shown charities can become **anxious to comply** and fill in sections that are not relevant to them for fear of reprisal. We feel that there is potential for the same thing to occur in the Commission's proposal to customise the Annual Return. While we support the effort to minimise the regulatory burden, we would encourage the Commission to provide further clarity on the rationale by which it considers a section relevant to one charity and not to another, and what the consequences would be – in terms of the Commission's risk assessment – if a question were accidentally or unintentionally missed out. Without this clarity charities could still experience the regulatory burden but unnecessarily.

Concluding remarks

We welcome the Commission's aim to minimise the burden on charities and to focus on the key risks to the sector. However we are concerned that some of the proposed changes risk not striking the right balance between enabling the Commission to fulfil its statutory duties and ensuring charities are not unduly burdened by regulatory requirements. We look forward to further engagement with the Commission in order to find solutions which fulfill the Commission's regulatory objectives while simultaneously allowing charities and their volunteers to continue serving the public good, and enabling them to tell their story to the public.

Yours sincerely,

Carol Mack
Chief Executive, Association of Charitable Foundations

Sir Stuart Etherington
Chief Executive, NCVO

Caron Bradshaw
Chief Executive, Charity Finance Group