

Title:	Opinion and Instruction Document
Package Number	0029
Package Title	Sharing of Direct Costs (Cost Sharing)
Headline Purpose:	To strengthen the legislative framework for cost sharing flights through amendments to the Air Navigation Order ("the ANO") and to UK Reg (EU) No 965/2012
Proposed action:	To amend article 13 of the ANO and Article 6 of UK Regulation (EU) No. 965/2012 to improve safety and consumer protection by strengthening the cost sharing regulations to minimise the potential for both misunderstanding and abuse.

Policy Objective

In order to strengthen the legislative framework for cost sharing flights, it is the CAA's opinion that amendments to [the ANO](#) and to [UK Reg \(EU\) No 965/2012](#) are required. One of the problems encountered when dealing with cost sharing flights is where pilots and passengers of Illegal Commercial Air Transport collude to present illegal flights as legal cost shared flights.

In 2021 a CAA internal working group was established to review the cost sharing legislative framework. After a careful review, a consultation was produced to engage with the community ([CAP 2270](#)) published November 2021) which set out our proposals for change and rationale. These changes included but were not limited to clarification of what is a 'direct cost', the way the direct costs are shared among the pilot and passengers, ways to ensure safety standards are identified and accepted by potential passengers and the way a cost sharing flight can be advertised.

After further deliberation following the public response from the consultation, the working group produced a Comment Response Document (CRD) ([CAP 2391](#) published December 2022) which detailed our proposed recommendations for change and our rationale.

Our proposals on the advertising element of cost sharing flights were developed as the result of concerns raised by respondents to our open public consultation ([CAP 2270](#)). We continued to engage with stakeholders whilst we worked to finalise our recommendations for legislative change and following this engagement, it was felt that a second consultation concentrating solely on the advertising element would be required. [CAP 2601](#) was published in November 2023 and our response to this was published on our webpages in February 2024. This second consultation provided the GA community with an additional opportunity to input their views on the advertising of cost sharing flights.

Background

The cost sharing rules are contained in Article 6 of [UK Reg \(EU\) No 965/2012](#) and Article 13 of the ANO. Non Part-21 aircraft also benefit from General Exemption E 5761 (published in Official Record Series 4 (ORS4) (currently ORS4 1554)) which aligns the requirements applicable to those aircraft with those established in which were not subjected at the time to the derogation contained within Article 6 of [UK Reg \(EU\) 965/2012](#).

Cost sharing flights are flights shared by private individuals where the passengers contribute to the cost of the flight. The costs that can be shared are the 'direct costs' incurred in relation to a specific flight (e.g. fuel, airfield charges, rental fee for an aircraft).

There can be no element of profit for the pilot as these flights are not commercial, and if profit is suspected then the flight might be operating outside of the law and therefore be illegal. The pilot must pay a contribution to these direct costs.

Pilots have long used cost sharing flights to reduce some of the high costs of operating aircraft. Examples of these cost sharing flights include sharing aircraft rental costs with friends or family or with a member of a flying club to fly to help build hours.

One of the main benefits of cost-sharing is the potential for pilots to gain experience at a lower cost to themselves. In non-commercial aviation the safety level of a flight is not determined by the giving of remuneration or other valuable consideration. However, when money changes hands for a service, there is an expectation of higher safety standards being applied, i.e. those applicable to commercial air transportation.

An internal review of illegal public transport found that the CAA needed to establish a single accountable individual for the topic of illegal public transport which then led to the forming of the Illegal Public Transport working group. As part of that working group a sub working group was formed (the cost sharing working group) to consider whether the current rules for cost sharing flights effectively mitigate the risks associated with this form of aviation, while maximising the benefits these flights provide.

We have found that there has been considerable confusion between legally conducted cost shared flights and illegal commercial air transport:

- Confusion among the GA community about the effectiveness of cost sharing flights. Safety data does not indicate that properly and legally conducted cost sharing flights carry any more risk than similar non-commercial flights conducted without costs being shared. However, with many pilots advertising their flight availability for potential strangers, some see this as an enhanced risk to the operation as they are unaware of what the intentions of the passenger may be or how they will respond being in a GA aircraft, potentially for the first time.
- Confusion for some operators not clear about the correct application of the cost sharing rules, resulting in either unintentional illegal operations, or not being able to undertake cost sharing flights to offset the cost of their flying,
- Confusion among aerodrome operators concerned about the perceived risk of illegality arising from cost sharing operations and therefore banning such operations from their premises; and most importantly,
- Confusion among the general public who do not understand the differences between cost sharing and public transport flights, and consequently unknowingly embark on illegal public transport activities.

After a full review of the current legislative framework, the cost sharing working group published the proposals for change in [CAP 2270: Consultation: UK Cost Shared Flights](#). Following the closure of this consultation, the working group refined the proposals and made changes where it was felt necessary.

The CAA is proposing the following changes to the legislative framework:

- Direct costs:** a definition of 'direct costs' to be amended where applicable or inserted into both [the Order](#) and [UK Reg \(EU\) 965/2012](#) (Article 6a) to provide clarity on what this includes. The current law is left open to interpretation of what could be included in a 'direct cost' therefore this change will identify unequivocally what can and cannot be included.
- Equal shares:** The pilot's contribution towards the direct costs of the flight must not be less than the proportional amount to the number of passengers on board. For

example, if there are three passengers, the pilot's share must not be less than 25%. However, the pilot can opt to pay more than the equal share if they choose. Currently, a pilot is only required make a nominal contribution (e.g. 1p) towards the flight, leaving the passengers to pay the rest of the costs of that flight. We hope that this proposed change will provide clarity to both passengers, and the pilot/operator and ensure no profit is made from the flight.

- c. **Maximum of 6 occupants (including pilot):** No more than 6 occupants (including the pilot) are to be carried on a cost sharing flight. The ANO at article 13 currently only provides for a maximum of 4 occupants (including the pilot). In order to align this with [UK Reg \(EU\) 965/2012](#) and the current General Exemption E5761 (ORS4 1554) we are proposing an amendment to the ANO to allow for a maximum of 6 occupants (including the pilot).
- d. **Safety standards identified:** It will be a requirement on the pilot/operator to identify unequivocally that the flight is a cost sharing rather than public transport/commercial air transport flight. Currently, there is no requirement in the law for a pilot or operator to identify these standards. It is intended that this proposed change will ensure passengers have sufficient information to make an informed decision whether they will undertake the flight. The identification of these standards must be included in any promotional material.
- e. **Acceptance of standards and risks:** In order for passengers to be fully informed, a record must be kept for each passenger*** undertaking a cost shared flight in which they must confirm that they understand the flight is not being operated as a commercial air transport or public transport flight. This record must be completed prior to flight, retained for 6 months from the date of the flight and is to be produced when requested by an Authorised Person. Currently, there is no requirement in the law for a pilot or operator to maintain any records with relation to a cost sharing flight or for a passenger to formally accept their understanding of the nature of the flight.
- f. **Advertising:** Removal and restatement of the restriction on advertising cost sharing flights from the ANO. This proposed change will align the ANO with [UK Reg \(EU\) 965/2012](#). Cost sharing flights may be advertised. The advertisement must be placed by the pilot intending to operate the flight and must include the start and end locations, the date when the pilot is available to conduct the flight, and any other information prescribed by the CAA.

Advertising will not be allowed where it results in passenger (s) dictating the destination and/or date/time of the flight, in the manner of someone chartering an aircraft.
- g. **Age limits:** The removal of age limits from article 13 of the ANO. The ANO currently sets an age limit of 18 years. This proposed change to remove the age limits will align the ANO with the [UK Reg \(EU\) 965/2012](#).

*** There will be an exception to this requirement for those who hold or have held a pilot's licence, or for those passengers who have formerly signed the declaration within the last six months, provided the pilot has retained the previous copy and has added subsequent flight details.

What legal powers are being used to achieve the change?

Section 60 Civil Aviation Act 1982 (for changes to the ANO) and Article 31 of the Basic Regulation

Further considerations

The potential risks of not amending the current cost sharing legislative framework could be:

- Abuse of the law – illegal public transport flights could be disguised as cost sharing flights (intentionally or unintentionally) so by adding in a definition of ‘direct costs’, ensuring the pilot pays a proportionate contribution towards the flight and having a clearer legislative framework relating to the advertising of such flights, this will aid in the community having a better understanding of what is and is not permitted and reduce unintentional illegal public transport.
- Passengers may be unaware of the type of flight they are engaging in and any associated differences in safety standards from a commercial flight
- Increasing clarity of the law will increase the prospects of successful enforcement action
- A continued lack of clarity for those operating a flight under the cost sharing exemption, particularly in relation to permissible costs.
- No restrictions on advertisements of cost sharing flights.

Therefore, the CAA considers that the proposals outlined above would strengthen the legislative framework, removing ‘grey’ areas which were open to interpretation and could have the potential for abuse. The CAA also considers that these proposals would help to inform any passengers on a cost sharing flight of the type of flight they are embarking on, ensuring the safety standards are identified to them and that passengers are able to formally record their acceptance of such differences prior to flight.

Affected Law (and, if Applicable, UK AMC)

What is the existing UK legal framework which is relevant here?	The ANO and UK Reg (EU) No.965/2012.
Identify the law that the CAA proposes be changed	Article 13 of the ANO Article 2 Definitions of UK Reg (EU) No.965/2012 Article 6 Derogations 4a (a) of UK Reg (EU) No.965/2012. Annex 7 (Part NCO) of UK Reg (EU) No.965/2012 to include NCO.GEN.102 Cost Shared Flights
Are any consequential amendments needed to other pieces of law?	No
If the change proposed is to assimilated EU Implementing Rules made under the UK Basic Regulation is there any UK Acceptable means of compliance (AMC), Guidance Material (GM) Certification Specification (CS) that will be changed/newly adopted as a consequence if the law is changed as proposed?	Yes, addition of: AMC1 NCO.GEN.102 GM1 NCO.GEN.102 GM2 NCO.GEN.102 GM3 NCO.GEN.102
If the change is to ANO will the CAA be amending any CAA Policy documents.	CAP 1589: Cost Sharing Flights – GA Guide to be amended CAP 1590: Cost Sharing Flights – Guidance and Information to be amended General Exemption E5761 (ORS4 1554) will be withdrawn

Does this proposal relate to an international treaty obligation (e.g. an ICAO SARP)?	No
Is a consultation required?	Yes, consultation CAP 2270 , published November 2021. Consultation Response Document CAP 2391 published December 2022.
Is an Impact Assessment necessary?	Yes. A De Minimis impact assessment has been prepared for these proposals
When is it intended that these provisions should be brought into force?	1 st October 2025
Has an SI "slot" been identified?	Yes. June 2025
Will there be any criminal offences?	No. If a flight meets the ANO or Air Operations regulation 965/2012 criteria to be a cost-sharing flight, the operator is acting legally. Existing offences will continue to apply to flights which do not meet the criteria. The proposed changes narrow the scope of the derogation and therefore will expand the scope of an offence under Articles 101 or 103.
If so, is a Justice Impact Test required?	No
What is the intended extent of the provision?	Flights in the UK by UK registered other than complex motor-powered aircraft.
Are there any devolved issues?	No
Are any transitional provisions needed? If so, what are they?	No