

April 2021



**Galway Traveller Movement**



**Submission to the Draft Galway City Council Control of  
Horses By Laws 2021**



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## **Introduction**

Galway Traveller Movement (GTM) welcomes the opportunity to submit observations, comments and recommendations to the **Draft Galway City Council Control of Horses Bye Laws 2021**

Galway Traveller Movement aims to achieve full and substantive equality for Travellers and the participation of Travellers in social, economic, political and cultural life as well as the broader enhancement of social justice and human rights. Key elements to the enjoyment of the right to equality include respect, dignity, justice, solidarity and freedom and full social economic and cultural rights Galway Traveller Movement works from community work principles and calls for the rights of Travellers to be protected and realised.

## **Background**

The Traveller community are a recognised minority ethnic group in Ireland. Travellers have a long-shared history distinguishing them from other groups and their own cultural traditions. Horses have played a major and distinct role in Traveller culture in Ireland. Firstly, horses were integral to the nomadic tradition as a mode of transport and hauling wagons. Secondly Travellers have traditionally engaged in economic activity centred on horses. For many Travellers, keeping horses would have been a full-time occupation requiring skills acquired over generations and passed on at an early age, keeping young Travellers occupied. Thirdly horses have and continue to social and cultural role in Travellers' lives. Traveller men interact with each other and the younger generations around horses.

*"The horse-based economy, including as it does the breeding of specific types of horses for the wider market, has made a huge contribution to sales within the Irish market.<sup>1</sup> In return this has impacted on Travellers financially, allowing some Travellers to become financially independent. Horses have supported social networking between Travellers and non-Travellers, breaking down misinformation and prejudices and creating solidarity with one another. This is done through Traveller participation in markets, fairs and other outlets such as horse racing events, trotting, and show jumping. For Traveller children horses are a great source of activity and fun, furthermore in teaching them how to care for their horses, older generation passes on vital knowledge central to Traveller horse culture."*<sup>1</sup>

It is against this context that we make this submission to Galway City Council as the legislation introduced since 1996 have negatively impacted on Travellers affecting them culturally, socially and economically. We wish to work to ensure that these proposed draft bye laws do not further marginalise Traveller horse owners.

## **Response to the Bye laws**

An overall observation that GTM would like to make is that these proposed bye laws will place a substantial burden on horse owners in Galway city. The GCC Bye-Laws need to be developed within the framework of the Public Sector Duty -ensuring equality and human

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<sup>1</sup> A feasibility study to explore a sustainable, Traveller-led horse project in Galway city.

rights outcomes for members of the Traveller community . This needs to be measurable. To this end we feel that it requires that there is a well publicised campaign to raise awareness amongst current horse owners of the introduction of the bye laws and how horse owners can comply with these new regulations. This would need to be accompanied by having a defined lead in period during which Galway City Council would work with Galway Traveller Movement and the Traveller community in Galway city. This lead in time would allow people to put in place the necessary paperwork and infrastructure to allow the horse owners to be fully compliant.

We would like to draw your attention to some specific aspects of the proposed bye laws.

**Bye law 5** provides that no person shall keep or have charge or control of a horse in the control area without a current horse licence.

**Observation:** the process for obtaining a licence is unclear (there appears to be no relevant information on Galway City Council's website).

**Recommendations:**

- We request that further information would be made publically available in advance of the issuing of the bye laws explaining how horse licences can be obtained. The public need to be made aware of how to obtain a licence, the cost of a licence and detail of the specific requirements in terms of land ownership. For example can a horse owner simply rent land as is widely the practice.
- Galway Traveller Movement would recommend that these horse by laws are not introduced until there is a functioning licensing system which is accessible and makes clear and transparent decisions with a right of appeal mechanism in place should a licence be refused. This is a necessary action as otherwise horse owners without a horse licence or the knowledge of how to acquire one will immediately be in default of the bye-laws but without any way to bring themselves into compliance.
- We would ask that once the bye laws are introduced that there would be an adequate "grace period" to allow owners to bring themselves in line with the bye-laws. GCC as the landlords of all social housing schemes and Traveller specific schemes should play a role in ensuring that all of their tenants are made aware of these proposed changes and given adequate notice and information to bring themselves into line with the bye laws.

**Bye-Law 13** relates to seizure and detention of horses.

**Observation:** There are some very onerous requirements in this bye-law and GTM recommend the following:

**Recommendations:**

- The five day period , which includes weekends and bank holidays, is very short and should be extended. If for example a horse was to be seized on the Friday of a bank holiday weekend this would leave 1 other working day within which to resolve the matter. This period needs to be extended to allow for due process and fair execution of the bye laws.
- Bye-Law 13(iv) states that all relevant fees are recoverable from the owner or keeper of a seized horse. The bye law does not specify any amounts making this

- clause impermissibly vague. In order for it to be enforceable amounts must be specified under each heading (see McDonagh v Galway County Council [2019] IEHC 304 as authority for the requirement to enumerate/specify amounts)
- Bye-Law 13(iv)(vii) provides that a horse may only be released on payment of the relevant fees. The point has already been made that in order for the fees to be sufficiently certain as to be enforceable, amounts be set out in the Bye-Laws. Accordingly, this Bye-Law and any other Bye-Law predicated on the charging of fees, is at risk of being found to be unenforceable unless the deficiency in Bye-Law 13(iv) is addressed.
  - In s.39(3) of the Control of Horses Act 1996 it allows amounts due and owing to a local authority to be recovered as simple contract debts. Thus, there is no necessity to retain a seized horse for the non-payment of fees.
  - Bye-Law 13(vii) provides that a horse may be disposed of in circumstances where the owner of the horse fails within five days of being notified to provide eight items of proof (listed at 13(vii) (ix) – (xvi)). GTM wishes to highlight that this aspect of the Bye-Laws is clearly disproportionate for a number of reasons. These reasons will be outlined in the following bullet points.
  - A horse may constitute an individual's property and, as such, is recognised by the Constitution as being subject to special protections. Interferences with property and property rights must therefore be in accordance with law and consistent with principles of natural and constitutional justice.
  - Taking that into account, the following are clear deficiencies with the Bye-Law. First, there is no apparent internal appeal mechanism or way for an individual to make representations.
  - Secondly, some of the items of proof may take more than five days to assemble for completely legitimate reasons.
  - Thirdly, the Council states it may dispose of a horse for non-payment of fees. The earlier points about the enforceability of the fees Bye-Laws applies equally here.

## **Conclusion**

As we outlined at the outset horses play a culturally significant role for many members of the Traveller community in Galway city. The introduction of the new proposed draft bye laws will place very onerous requirements on many individuals and families. We strongly urge Galway City Council to take into account the recommendations and observations outlined in our submission. In order for members of the Traveller community not to be disproportionately affected by the introduction of the horse bye laws we strongly urge that there would be a grace period given before the enactment of these bye laws and that adequate notice of the implementation of these and information on how to adhere to these is circulated. We would also like to draw your attention to the document attached with our submission which was produced in 2016 and called for the funding and establishment of a horse project in Galway city. We feel now is the critical time for this project to be initiated as this will enhance the capacity of the Traveller community to adhere to the proposed new bye laws and create a safe space for horse owners to engage. We would also like to draw GCC attention to a report commissioned by Pavee Point. This is an invaluable resource to support the finalising of the Galway City Council Bye- Laws 2021.

<https://www.paveepoint.ie/wp-content/uploads/2015/04/Horses-Research-Report-28pp-WEB.pdf>

