

# Malawi



## SUMMARY

Malawi is a democratic republic with two spheres of government: national and local. Local government is enshrined in Chapter XIV of the constitution and responsibility for its administration rests with the Minister of Local Government and Community Development. The local government system has 35 single-tier authorities: four cities, 28 district councils, two municipal councils and one town council. The councils are responsible for raising and collecting local taxes and user fees and charges; however, the majority of their revenue comes from central government grants, both conditional (sectoral funds) and unconditional (general resource funds). All councils have the same responsibilities including primary education, primary health, forestry, natural resources and community services.

## 1. CENTRAL GOVERNMENT

Malawi is a democratic republic with a unicameral parliament. The head of state and government is the president, who is directly elected for a maximum of two five-year terms by universal adult suffrage from age 18. A person must be at least 35 years old to stand for president. A vice-president is elected concurrently with the president, both names appearing on the same ballot paper. The president may, in the national interest, appoint a second vice-president, who must be from a different party. In such cases the elected

## Key Facts

**POPULATION<sup>+</sup>:** 15,400,000  
**AREA<sup>2</sup>:** 118,484 sq km  
**CAPITAL:** Lilongwe  
**LOCAL GOVERNMENT CONTRIBUTION TO GDP: -**  
**CURRENCY:** kwacha (MWK)  
**HEAD OF STATE AND GOVERNMENT:** President Joyce Banda  
**FORM OF GOVERNMENT:** republic  
**PARLIAMETARY SYSTEM:** unicameral  
**STATE STRUCTURE:** unitary  
**LANGUAGES:** English and Chichewa (official)  
**NATIONAL ELECTIONS: last:** 2009, **turnout:** -, **next:** 2014  
**LOCAL ELECTIONS: last:** 2000, **turnout:** 14.2%; **next:** April 2014

vice-president is designated as the first vice-president. Malawi's parliament, the National Assembly, has 193 members elected by popular vote from single-member constituencies for a term of five years. Twenty-two of the current MPs are female. The president appoints a cabinet, whose members need not necessarily be members of parliament. Malawi has three administrative regions: the Northern region (seven councils), the Central region (11 councils) and the Southern region (17 councils).

## 2. LEGAL BASIS FOR LOCAL GOVERNMENT

### 2.1 Constitutional provisions

Local government is enshrined in Chapter XIV of the Constitution. Article 146(3) provides that 'parliament shall, where possible, provide that issues of local policy and administration be decided on at the local level under the supervision of local government authorities'.

### 2.2 Main legislative texts

The principal relevant legislation is the Local Government Act 1998. This provides a framework for decentralisation, establishing the councils and providing for their composition, powers, functions and financing. The objectives of local government are 'to further the constitutional order based on democratic principles, accountability, transparency and participation of the people in decision-making and development processes'. The Local Government Act has undergone a number of changes, most recently in January 2010, including – but not limited to – reducing the number of local authorities to 34 and renaming local authorities as councils. A recent presidential directive elevated an urban centre to a town council, thus increasing the total number of councils from 34 to 35. Other important legislation includes the National Elections Act 1996 and the Environmental Management Act 1996.

## 3. STRUCTURE OF LOCAL GOVERNMENT

### 3.1 Local government within the state

Malawi has a single tier of local government comprising four cities, 28 district councils, two

municipal councils and one town council. They are all on the same level with no subsidiary or supervisory structure. The initial 34 councils consisting of four cities, 28 districts and two municipal councils were introduced after the 2010 Local Government Act Amendment, while the lone town council was a result of a presidential declaration in 2012 as provided in the Republican Constitution.

### 3.2 Ministerial oversight

Responsibility for local government rests with the Ministry of Local Government and Community Development (MLGCD).

### 3.3 Council types

The local government system has 35 single-tier local authorities called councils. The 28 district councils, which are predominantly rural, are co-terminous with the former administrative districts. Until 2010, there were 40 single-tier local authorities; however the 2010 Amendment to the Local Government Act merged six of the former town assemblies with six district assemblies to create six new district councils, and elevated two towns to municipal status; creating in total 34 new councils. The townships previously under the administration of town assemblies are still towns in their own right, but are under the administration of their respective district councils as designated urban centres. These centres are managed by town management committees which look after the welfare and needs of local citizens. The legislation does not distinguish between urban and rural councils and their responsibilities. In practice, their functions are influenced by their urban or rural characteristics and assemblies may request exemption from functions specified in the legislation. Each council has autonomy within its designated local government area. This includes discretion to discharge any of their functions jointly and set up joint committees for these purposes.

**3.3.1 District councils** These are required to appoint committees for finance, development, education, works, health and environment, and human resources. There is full discretion to establish other committees and sub-committees,

**Table 1. Distribution of councils and population**

Region	Local authorities				Township	Population (Census 2008)
	District councils	City councils	Municipal councils	Town councils		
North	6	1	0		1	1,708,930
Centre	9	1	1		3	5,510,195
South	12	2	1	1	3	5,858,035
Total	28	4	2	1	7	13,077,160
Largest	1,23-,834	674,448	59,696	41,074	42,555	
	Lilongwe District	Lilongwe City	Kasungu	Mangochi	Kaonga Township	
Smallest	10,414	88,314	15,501		15,753	
	Likoma	Zomba City	Luchenza		Dedza	

with powers to co-opt non-voting members. The councils elect from the councillors a full-time chairperson as head of the council for a term of one year, with possible re-election for only one additional term.

Decision-making is conducted through committees. The legislation does not specify any executive committees or cabinets nor does it specify sub-district governmental structures. In practice, the district executive committee (DEC) led by the district commissioner exercises executive responsibilities, supported by district consultative committees (DCCs), area development committees (ADCs) and village committees (VCs) which previously provided the participative and administrative structure to support the former District Focus for Rural Development (DFRD). The appointments and disciplinary committee is formed by the council secretariat. Councils may establish new structures or use existing ones, although the latter do not entirely reflect (the ward representation of council members.

As planning authorities, councils are required to prepare district development plans. These plans must explicitly take into account the national development framework as outlined in the central government's Vision 2020 planning framework, the Malawi Growth and Development Strategy (MDGS), and the decentralisation policy. Councils must also produce disaster preparedness plans and, under the Environmental Management Act 1996, five-year environmental action plans.

**3.3.2 City councils** In city councils the chairperson is given the title of mayor. Mayors are non-executive and are elected by and from among the elected councillors during the council's first meeting. Mayors serve a term of two-and-a-half years with the possibility of re-election once.

**3.3.3 Municipal councils** Six of the eight town assemblies were merged with district assemblies to form district councils, the other two assemblies were elevated to municipal councils. Chairpersons of municipal councils are also called mayors; their election to office and term of office is also for two-and-a-half years with the possibility of re-election once. The leadership in the town councils follows the pattern of municipal and city councils.

### 3.4 Traditional leadership

Within the traditional leadership structure each village has a group village headman, selected

by the village headsmen and responsible for five or more villages. The traditional authority (TA) positions are hereditary and the chieftancy clan nominates the traditional leader. At the most senior level a sub-chief has responsibility for a number of TAs, with the senior chief having authority over all sub-chiefs in the district. TAs and sub-TAs within each local government area serve, ex-officio, as non-voting members of the councils.

## 4. ELECTIONS

### 4.1 Recent local elections

The last local government elections held in November 2000 were the first multi-party ones, contested by the Malawi Congress Party (MCP), the United Democratic Front (UDF) and the Alliance for Democracy (AFORD). With a 14.2% turnout, UDF won, taking 70% of the seats. The scheduled 2010 elections were postponed until 2014.

### 4.2 Voting system

Councillors are elected under the first-past-the-post system, one councillor representing each of the wards in the country for a term of five years. The democratic system is uniform across the councils. During the last elections, 860 councillors were elected. Following the 2010 Amendment to the Local Government Act, there are now 461 wards to be represented by elected members. Additionally, councils have other members including:

- Members of the National Assembly whose constituencies fall within the local government area are now voting members by virtue of the recent Amendment
- All full traditional authorities, as opposed to sub-traditional authorities, within the local government area are non-voting members. The 2010 Amendment to the Local Government Act excludes from membership all sub-traditional authorities who previously were members
- Five members appointed by the elected councillors to represent special interest groups determined by the council. Nkhata Bay district council had, for example, 22 elected councillors with voting powers. It also had 23 non-voting members, including ten chiefs, six members of the National Assembly, and five appointed members representing the interests of groups which would otherwise be voiceless in the development process, eg people with disabilities, the business community, etc.

### 4.3 Elected representatives

The chairpersons of the councils are indirectly elected by the councillors during the first meeting, which is chaired by the chief executive officer.

### 4.4 Women's representation

Following the local government elections of 2000, 842 people were elected as councillors, of whom 70 (8.3%) were women, including two deputy mayors of city councils.

## 5. SYSTEMS FOR COMMUNITY INVOLVEMENT

### 5.1 Legal requirement and 5.2 Implementation

District councils are responsible for the overall development of their areas and are required to engage local communities and other interest groups such as the private sector and NGOs in the preparation of their three-year rolling district development plans. To support this process the councils may establish area-wide, ward or village committees. The special interests represented on the council also serve to broaden democratic participation. All council meetings, together with committee, sub-committee and joint committee meetings, are open to the public, subject to advance application to attend. The councils have a duty to publish information relating to local government and the services available within their areas.

### 5.3 E-government

There is no e-government strategy for local government in place.

## 6. ORGANISED LOCAL GOVERNMENT

The Malawi Local Government Association (MALGA) is recognised by the government as the voice of local authorities but has no constitutional or legislative recognition. Membership is drawn from the chairpersons of councils, but some councils have more than one representative in the association, depending on the quota. MALGA has a permanent secretariat and is the body for coordinating local government training. MALGA represents the interests of all local authorities in issues involving other member authorities, civil society and government. MALGA's research and training unit deals with issues of decentralised cooperation and dissemination of current research findings on local government to its members. The website of the Ministry of Local Government and Rural Development contains further information.

Table 2. Revenue and expenditure

Revenue in local currency		Expenditure in local currency	
Government transfer (total)		Admin and operational (total)	
Conditional	302,200,000	Salaries total	1,045,000
Unconditional	530,200,200	Elected representatives	0
		Staff	74,365,000
Local tax (total)			
Council tax			
	869,200,000		
Property tax (for cities and municipal councils only)	1,457,900,000		
Commercial undertakings	151,050,000		
Charges for services (total)		Service delivery (total)	
<b>Total</b>	<b>Information not disaggregated further</b>	<b>Total</b>	<b>Information not disaggregated further</b>

## 7. INTERGOVERNMENTAL RELATIONS

With a focus by the Malawi government on devolution to achieve decentralisation, there are as yet no regional or provincial offices of local government. Communication is channelled directly from the centre to the local government level. Councils communicate directly with sector ministries on policy issues and reports.

There is a cabinet committee on local government and rural transformation which is composed of cabinet members whose mandate is to provide policy directives on local governance and local development. The interministerial Commission on Decentralisation is composed of technical officials from key sector of government including those that are currently devolving their functions to local authorities. This committee advises the cabinet committee on matters of policy.

Mechanisms to facilitate intergovernmental relations are included within the central government's decentralisation programme:

- A cabinet committee on decentralisation meets on an ad-hoc basis to review decentralisation recommendations
- The Ministry of Finance is responsible for fiscal decentralisation and for integrating financial systems at national level with those at council level
- The decentralisation unit within MLGRD provides technical guidance on the decentralisation process, and links donor organisations with the elements of the process they are supporting
- The decentralisation policy defines the roles and responsibilities of line ministries and the MLGRD in relation to councils. Line ministries maintain direct links with district councils over policy issues. They are also responsible for training and monitoring compliance with policy guidelines
- The Inter-Ministerial Technical Committee on Decentralisation, whose members include various government ministries and representatives of donor interests, has a reviewing and monitoring role, and provides guidance to sectoral ministries on the decentralisation process. It also makes policy recommendations to the cabinet committee.

## 8. MONITORING SYSTEMS

Under the Local Government Act 1998, the accounts of a district council must be submitted

to the national Local Government Finance Committee (LGFC), which then forwards them for audit by the auditor general, who may also carry out surprise audits and other investigations. After considering the findings of any report the LGFC has powers to disallow any expenditure contravening the provisions of local government legislation and to surcharge those responsible. The audit report is also sent to the council and the Minister of Local Government.

Under the new legislation, local councils are required to submit their annual estimates of revenue and expenditure to the LGFC for approval, with supplementary estimates following the same procedure. No expenditure may be incurred which has not been included in the approved estimates. The LGFC may, however, approve reallocations. This system is intended to secure the formulation of realistic budgets by the councils, so that they do not generate losses, but create investment opportunities. All council budgets will be consolidated by the LGFC and presented to the National Assembly as a local government budget for its noting.

## 9. FINANCE, STAFFING AND RESOURCES

Under the constitution the government is required to ensure that adequate resources are provided for the effective local delivery of devolved functions. The total aggregate revenue for local government in 2011/12 was Malawian kwacha MK19.4bn while expenditure was MK17.7bn. In 2010/2011, the total aggregate revenue was MK16.2bn with expenditure totalling MK15.3bn. Out of this expenditure MK1.9bn was for personal emoluments and MK14.6bn for services.

### 9.1 Locally raised revenue

The National Decentralisation policy and Local Government Act provide for all sources of revenue where councils can charge or collect fees, and levy rates. However, in order to manage the process smoothly, the Ministry of Local Government in consultation with relevant sectors of government, depending on the type of services, provides guidance on how these can be determined.

### 9.2 Transfers

There are two types of grant transfers from central to local government. This is in accordance with the constitutional provision

that 5% of net government revenue should be transferred to local authorities. This is to ensure that adequate resources are provided for the effective local delivery of devolved functions and to address under collections. Transfers to local governments are made in accordance with an approved formula which is reviewed from time to time. Use of the formula is the preferred mechanism as it fosters fairness, transparency, accountability and equality across the regions.

Transfers should be based on 5% of National Net Revenue (NNR) as unconditional grants. Parliament also decided that 9% and 15% of NNR should be allocated for health and education funds for functions to be developed. Thus, it is anticipated that a total of 29% of NNR will be devolved to local government.

### 9.3 Local authority staff

The Local Government Act 1998 envisaged that councils would be responsible for the recruitment, promotion, discipline and dismissal of all employees, together with the determination of their conditions of service, salaries and allowances. An amendment to the legislation in January 2001 switched responsibility for the recruitment of senior management staff from councils to the Local Government Service Commission (LGSC). The LGSC's remit extends to the recruitment of the chief executive/district commissioner; the directors of finance, administration, public works, management information systems and internal audit; and two finance officers responsible for recurrent revenue and development matters. The LGSC is an independent commission that was originally set up in 1984 to support local government. It was later disbanded, but has now been reactivated on an interim basis until councils have the capacity to assume full recruitment responsibilities.

Councils retain responsibility for all other staffing matters. They also have discretion to organise secondments or exchange officers with another council in Malawi or elsewhere. Councils may request the secondment of other public officials, including central government staff, to assist them. Councils are required to recruit a chief executive as head of the paid service. No other senior appointments are specified in the legislation, or any departmental structure other than the requirement to establish an internal audit department.

Chairpersons' allowances are determined

by the Minister of Local Government on the recommendation of the LGFC. In addition, the ministry determines allowances for all ward councillors, as councils (especially districts) tend to over-rely on transfers from the centre. Cities set their own rates for allowances and other benefits for councillors, and these are usually different from those for districts and municipalities.

## 10. DISTRIBUTION OF SERVICE DELIVERY RESPONSIBILITY

The legislation and the central government decentralisation policy give councils responsibility for:

- Education, science and technology
- Health, population and water development
- Transport and public works
- Land surveying and physical planning
- Agriculture and irrigation
- Gender, youth and community affairs
- Natural resources and environmental affairs
- Commerce and industry
- Home affairs and internal security.

Under the legislation most decentralised functions are mandatory. Decentralisation implementation is phased.

In 2010, the Local Government Act was amended and some notable changes took place: the reference to local authorities as 'assemblies' was changed back to 'councils'; the number of local authorities was reduced from 40 to 34 (currently 35) by merging some former town assemblies with their parent assemblies: MPs were given voting rights in the council chamber; and the number of wards was reduced to 44.

### References and useful websites

1. National Statistics Office  
www.nso.malawi.net  
Census 2008 www.nso.malawi.net/data\_on\_line/demography/census\_2008/2008censusresults.htm  
UN statistics <http://unstats.un.org/unsd/demographic/products/dyb/dyb2008/Table03.pdf>
2. IMF statistics  
www.imf.org/external/data.htm
- Ministry of Local Government and Rural Development [www.mlgrd.gov.mw](http://www.mlgrd.gov.mw)
- Government of Malawi  
[www.malawi.gov.mw](http://www.malawi.gov.mw)
- UNDP Human Development Report  
[www.hdr.undp.org](http://www.hdr.undp.org)
- Local Government Association website  
[www.malgamw.org](http://www.malgamw.org)
- Malawi Election Commission  
[www.mec.org.mw](http://www.mec.org.mw)

## Annex A. Summary of service provision in different spheres of government

	Delivering authority		Remarks
	Central	Councils	
<b>GENERAL ADMINISTRATION</b>			
Police	■		Councils provide community police
Fire protection		■	
Civil protection	■		
Criminal justice	■		
Civil justice	■		Councils also responsible for ambulance services, probation and welfare
Civil status register		■	
Statistical office	■	■	District statistics service
Electoral register	■		
<b>EDUCATION</b>			
Pre-school		■	
Primary		■	
Secondary	■		Also a few private high schools
Vocational and technical	■		
Higher education	■		
Adult education	■		
Other		■	Distance learning centres
<b>SOCIAL WELFARE</b>			
Kindergarten and nursery			Private provision in urban areas
Family welfare services		■	
Welfare homes		■	
Social security	■		
<b>PUBLIC HEALTH</b>			
Primary care		■	
Hospitals	■	■	
Health Protection		■	
<b>HOUSING AND TOWN PLANNING</b>			
Housing	■	■	Subject to general ministerial direction
Town planning		■	(all planning in accordance with national policies)
Regional planning		■	
<b>TRANSPORT</b>			
Roads	■	■	Road subject to the national roads authority act
Transport			
Urban roads	■	■	
Urban rail			
Ports	■		
Airports	■		
<b>ENVIRONMENT AND PUBLIC SANITATION</b>			
Water and sanitation		■	
Refuse collection and disposal		■	
Cemeteries and crematoria		■	
Slaughterhouses		■	
Environmental protection		■	
Consumer protection		■	
<b>CULTURE, LEISURE AND SPORTS</b>			
Theatre and concerts		■	Councils may support/aid other bodies in the provision of cultural/leisure services
Museums and libraries	■	■	
Parks and open spaces		■	
Sports and leisure		■	
Religious facilities			
<b>UTILITIES</b>			
Gas services			
District heating			
Water supply		■	In liaison with Ministry of Water Development
Electricity	■		
<b>ECONOMIC</b>			
Agriculture, forests and fisheries	■	■	
Economic promotion	■	■	
Trade and industry	■	■	Trading/commercial services
Tourism	■	■	(eg. hotels, restaurants, farms)
Other economic services		■	

■ = Discretionary service by the local authority