



The local government system in

Kenya

Local government information correct as of 2009



Key facts

POPULATION (Census 2009): 38,610,097
AREA: 580,367 sq km
CAPITAL: Nairobi
LOCAL GOVERNMENT CONTRIBUTION TO GDP: 1.1%
CURRENCY: Kenyan shilling (KES)
HEAD OF STATE AND GOVERNMENT: President Mwai Kibaki
SHARED WITH: Prime Minister Raila Amolo Odinga
FORM OF GOVERNMENT: democratic republic
PARLIAMENTARY SYSTEM: unicameral
STATE STRUCTURE: unitary
LANGUAGES: Swahili and English (official).
NATIONAL ELECTIONS: last: 2007; turnout: - next: 2012
LOCAL ELECTIONS: last: 2007; turnout: - next: 2012

SUMMARY

Kenya is a democratic republic with two spheres of government; national and local. There is no constitutional provision for local government and the principal relevant legislation is the Local Government Act 1977. Local government is overseen by the Ministry of Local Government and comprises 175 single-tiered council areas: three city councils, 43 municipal councils, 62 town councils and 67 rural county councils. Local authorities are responsible for collecting taxes and user fees and charges, they also receive revenue from central government block grants through the Local Authorities Transfer Fund (LATF). The only statutory responsibility of all

local authorities is the burial of the destitute generally however, local authorities have responsibility for local services, including but not limited to, markets, refuse collection, local road maintenance and street lighting.

1. CENTRAL GOVERNMENT

Kenya is a democratic republic with a unicameral parliament, the National Assembly (Bunge). The head of state is the president who is directly elected by universal adult suffrage for a maximum of two five-year terms. The winning candidate must secure a majority, receive at least 25% of the vote in at least five of the seven provinces and the capital and be an elected

member of parliament. Under a power-sharing deal brokered in 2010, the position of prime minister was created and this post shares executive powers with the president.

Of the 222 members of the national assembly, 210 are directly elected from single-member constituencies to serve a five-year term. The president appoints the other 12 members from nominees submitted by the political parties and coalitions in proportion to their share of the national vote. There are two ex-officio members: the Attorney General and the speaker of the national assembly. The president appoints a vice-president and members of his or her cabinet from among the members of the assembly.



The country is divided into eight provinces and 47 districts for administrative purposes.

2. LEGAL BASIS FOR LOCAL GOVERNMENT

2.1 Constitutional provisions:

There is no constitutional provision for local government.

2.2 Main legislative texts:

The principal legislation is the Local Government Act (Cap. 265) 1977, and there have been a series of Amendments. Other laws relating to the management of local authorities include:

- Local Government Loan Authority Act (Cap. 270)
- Land Planning Act (Cap. 303)
- Trade Licensing Act (Cap. 497)
- Rating Act (Cap. 267)
- Valuation for Rating Act (Cap. 255)
- Agriculture Act (Cap. 218).

3. STRUCTURE OF LOCAL GOVERNMENT

3.1 Local government within the state:

Local government is single-tiered in both urban and rural areas and total 175 councils. Urban local governments comprise three city councils, 43 municipal councils and 62 town councils, whilst rural local government is provided by 67 county councils.

3.2 Ministerial oversight:

Under the provisions of the Local Government Act 1977, the Minister of Local Government is responsible for local authorities. The minister's remit covers the constitution of local authorities, power to establish and extinguish local authorities,³ and oversight of their policies, by-laws, staffing, administration, operations, budgets and financial management. Other sector ministries also directly affect the operation of local authorities, particularly in the areas of health, education, water and roads.

The local government minister can appoint inspectors to undertake an 'extraordinary inspection' or appoint public officers to undertake 'research, inquiries and investigations' in respect of the Act's provisions or to promote efficiency in a local authority's operations. If an inspection results in adverse findings the minister may replace a council with a commission of at least three people, with the powers of the local authority and the councillors they replace.⁴ Such a commission is appointed for two years and the term may be extended for a further year. Subsequent extensions require the approval of the House of Assembly. Alternatively, oversight arrangements may be put in place.

In February 2000 an Interim Oversight Board was established for Nairobi City Council following

Table 1. Distribution of councils and population (Census 2009)

Province	Number of authorities					Population (Census 2009)
	District	City	Municipal	Town	County	
Central	5	-	n/a	n/a	n/a	4,383,743
Coast	6	1	n/a	n/a	n/a	3,325,307
Eastern	9	-	n/a	n/a	n/a	5,668,123
Nairobi	-	1	n/a	n/a	n/a	3,138,369
North Eastern	3	-	n/a	n/a	n/a	2,310,757
Nyanza	6	1	n/a	n/a	n/a	5,442,711
Rift Valley	14	-	n/a	n/a	n/a	10,006,805
Western	4	-	n/a	n/a	n/a	4,334,282
TOTAL	47	3	43	62	67	38,610,097

Source: Kenyan National Bureau of Statistics¹

the report of an Extraordinary Inspection Team (EIT) into the council's financial and management practices and standards of service delivery.

Kenya has seven provinces – Central, Coast, Eastern, North East, Nyanza, Rift Valley and Western – and one area, Nairobi. These are divided into 166 districts which have administrative responsibilities under the de-concentration initiative, the District Focus for Rural Development, which was introduced in 1983. The district system is further de-concentrated through divisions, locations and sub-locations, which are primarily concerned with social conflict resolution and local security, with little input into planning or service delivery.

A provincial commissioner appointed by the president heads each provincial administration. Districts are headed by district commissioners, also appointed by the president, who are assisted by divisional officers, chiefs⁵ and sub-chiefs who have responsibility for the divisions, locations and sub-locations. The district commissioner is accountable through the provincial administration to the Office of the President.

3.3 Council types:

The provisions of the Local Government Act usually require local government bodies to seek the approval of the Ministry of Local Government or the appropriate sector ministry. Although Nairobi has had city status since 1950, Kisumu, the capital of Nyanza province, and Mombasa, the capital of Coast province, were only accorded this status in December 2001 and January 2002 respectively. In practice the established municipal councils provide a wider range of services than the counties, towns and newer municipalities. City and municipal councils are led by a mayor, and town and county councils by a chairperson, elected by the councillors following local elections. Committee chairpersons are also elected. There are no

executive committees or cabinets.

Councils conduct their business through committees, which make recommendations to the full council. All councils are required to have a finance committee. There is full discretion to establish other committees, the number and type depending on the size of the authority and its responsibilities. A planning committee is commonly established. Other committees may include works, markets, education, social services, health and environmental services. For example, Busia County Council has four committees: finance, staff and general purposes; town planning, works and markets; environmental conservation; and education and social services.

4. ELECTIONS

4.1 Recent local elections:

The last local elections were held in 2007, the next local elections are scheduled for 2012.

4.2 Voting system:

Local government elections are held at the same time as those for the president and the national assembly, since local councils are dissolved after the dissolution of the national assembly. Two-thirds of councillors in each authority are directly elected in single-member wards for a five-year term. The Minister of Local Government appoints the remaining third, following nominations by the political parties or coalitions on the basis of their representation within each council. The district commissioner (or his/her representative) is also a councillor, providing a link between the local authority and district activities. This system is uniform across the country.

4.3 Elected representatives:

City and municipal councils are led by a mayor, and town and county councils by a chairperson, elected by the councillors following the local elections. Committee chairpersons are



also elected. There are no executive committees or cabinets.

4.4 Women’s representation:

In the 2002 local elections, 381 women stood as candidates and 97 were elected, representing c.2.6% of all (approximately 3,800) councillors.

5. SYSTEMS FOR COMMUNITY INVOLVEMENT

5.1 Legal requirement:

The Local Government Act 1977 makes no reference to citizen participation. It allows, but does not require, the local authority to publish a summary of budget estimates in a local newspaper. The local authority must provide a copy of the annual estimates if this is requested, although it may charge a fee. Local citizens may attend full council meetings as observers, but committees are held in closed session. The Kenya Local Government Reform Programme (KLGPR) requires local authorities to produce local authority service delivery action plans (LASDAPs) as one of the four conditions for the transfer of funds under the performance component of the Local Authorities Transfer Fund (LATF). LASDAPs put forward a three-year rolling programme of local activities and projects, with the first year feeding directly into the annual budget.

5.2 Implementation:

Since the return of multi-party democracy in 1992 there has been rapid growth in civil society networks and groups, with women’s organisations being strongly represented. However, until recently this has not been matched by opportunities for participation in the local government system, nor have local authorities been active in the provision of local-level information.

On an annual basis local authorities are required to:

- Prepare a list of formal and informal organisations within their areas
- Publish information on their LASDAP inviting proposals and comments
- Hold at least one consultative meeting with local organisations to identify needs and prioritise activities and projects.

In the first year of LASDAPs (2001/2002) more than 27,000 individuals participated in 900 meetings. Participant groups included market and trader associations, women’s groups, self-help groups, disability groups, neighbourhood groups, health and medical groups, churches and schools. Elected representatives, both national

Table 2. Aggregate revenue and expenditure for local government (2007/2008)

Revenue	KSh bn	Expenditure	KSh bn
Government transfers	-	Personnel costs	9.1
Local Authorities Transfer Fund	8.2	Operations	4.0
Road Maintenance Levy Fund	1.4	Civic expenditure	1.2
Locally raised revenue	-	Maintenance	0.8
Local property tax	3.5	Capital	3.5
Fees and charges	4.4	Debt	4.2
Single business permits	2.3		
Water and sewerage fees	0.5		
Other revenues	3.0		
TOTAL	23.4	TOTAL	22.8

Source: Ministry of Local Government⁴

and local, together with some government officials, also took part.

5.3 E-government:

No e-government strategy is in place.

6. ORGANISED LOCAL GOVERNMENT

6.1 National local government association:

The Association of Local Government Authorities of Kenya (ALGAK) was established in 1959 to facilitate the development of an effective and viable local government system. Membership is voluntary, and the association is not recognised in law. Funded by member contributions, its objectives are to:

- Lobby for a strong local government system and the development of appropriate policies
- Promote solidarity and good governance among local authorities
- Promote sustainable development
- Strengthen the operational capacity of local authorities.

It has an independent secretariat, whose remit is to:

- Provide a link between local authorities and the Ministry of Local Government
- Oversee training programmes for members and officers
- Publish materials relevant to the running of a local authority, including a newsletter
- Liaise with the Ministry of Local Government to secure from the treasury any outstanding arrears of central government transfers.

7. INTERGOVERNMENTAL RELATIONS

There are formal relationships between local and central government; the key ones are with the Ministry of Local Government and the sector ministries for education, health and water. ALGAK represents local government at national level.

The provincial administrations, through the district commissioners, have established formal relationships with local councils, and approve all

local development proposals, although this arrangement has no legal basis. The district development committee (DDC), accountable to the centre, takes the most important and influential decisions and coordinates all local proposals on a district-wide basis before they can be submitted to the Ministry of Local Government. Its membership includes:

- The district commissioner (chairman)
- The district development officer
- Departmental heads of all ministries represented in the district
- All members of the national assembly in the district
- Chairpersons and mayors of local authorities
- Clerks of local authorities
- Chairmen of divisional development committees (DVDCs)
- Representatives of development-related parastatals
- Invited representatives of non-governmental organisations (NGOs) and self-help groups.

8. MONITORING SYSTEMS

Since 2000, under an amendment to the Local Government Act, local authorities have been required to establish an independent internal audit unit, with the internal auditor reporting to the finance committee. Financial statements must be submitted at the end of each financial year for audit by the Controller and Auditor General.

9. FINANCE, STAFFING AND RESOURCES

9.1 Locally raised revenue:

Local authorities are responsible for collecting taxes and user fees and charges.

9.2 Transfers:

Local authorities receive revenue from central government block grants. The Local Authorities Transfer Fund (LATF) was introduced in 1999 to replace the Local Authorities Service Charge. It



provides for the transfer of 5% of national personal income tax to local authorities to improve local service delivery, financial management and accountability, and eliminate all outstanding local debts. LATF allocations are formula-based, providing:

- A basic minimum lump sum for all local authorities
- A fixed percentage (60-70%) allocated on a population basis
- A fixed percentage based on relative urban population.

Transfers are by block grant. The allocation to each local authority has two components, a 60% service delivery component and a 40% performance component. Transfers are contingent on the local authority providing different sets of financial information and plans for each component. The service delivery component for 2002/2003 required:

- At least 50% must be allocated to capital projects
- Not more than 60% of the total should be for personnel
- Statutory charges must be paid within the year in which they are due.

Since 2001/2002 the performance component has required that local authorities provide:

- A statement of receipts, payments and balances, and an abstract of accounts
- A statement of debtors and creditors
- A revenue enhancement plan • A LASDAP, identifying and prioritising local expenditures, prepared using a participatory planning approach.

In 2007/2008, the government transferred KSh8.25bn (US\$105m) to local authorities through the LATF, a 10% increase over 2006/2007. The treasury is implementing a monitoring and evaluation programme to assess how these resources have been used. An independent advisory committee, chaired by a private-sector appointee, advises the government on the operation of the LATF. Other private-sector interests, the Ministry of Local Government and the Ministry of Finance and Planning are represented, together with ALGAK. Some 20% of the Road Maintenance Levy Fund, linked to a levy on petrol and diesel, is disbursed through the Ministry of Local Government for the ministry's managed roads projects. The majority is spent by the ministry on behalf of local councils, but a small amount reaches the 62 towns to maintain

and rehabilitate unclassified roads. The Ministry of Local Government must approve most changes to fees, taxes and other charges. Under the Single Business Permit local authorities have a choice of tariff levels under a range of pre-approved schedules. Central government covers certain salary costs in the seven local authorities which have approved education and health responsibilities.

9.3 Local authority staff:

Councillor remuneration is determined by central government through the Ministry of Local Government. The costs are met from council revenues. However, a government committee is reviewing whether in the future councillors might be paid directly by central government.

Senior staff are recruited through the Public Service Commission (PSC), with the Minister of Local Government having full discretion over the most senior appointments. The PSC is also responsible for promotions and disciplinary matters. Other staff are directly recruited and dismissed by local authorities. Part-time casual workers are also employed. All local government employees must follow the Code of Conduct and Ethics for public officers under the Public Officer Ethics Act 2003.

A town clerk, appointed by the PSC, is head of the paid service in city, municipal and town councils. A county clerk, similarly appointed by the PSC, is the chief officer in the county councils. The town clerk and the treasurer are supported by other officers as required by the size and responsibilities of the council. Other senior appointments may include an engineer, a chief administrative officer and a public health officer. In addition to the town clerk's and treasurer's departments other departments may include those for works and planning, education and social services, water and sanitation, and health.

The aggregate figures conceal wide variations in expenditure patterns between the different types of local authority. Nationally personnel costs, including member allowances, account for almost half of all expenditure. In county councils this percentage is much higher, estimated at 70-80% of total expenditure. Local authorities are not permitted to set deficit budgets. In practice deficit budgeting occurs as local authorities overestimate income in order to meet budgeted expenditure.

10. DISTRIBUTION OF SERVICE DELIVERY RESPONSIBILITY

The only statutory responsibility of all local authorities is to provide for the burial of the destitute within their areas.

Generally local authorities have responsibility for local services including markets, slaughterhouses, refuse collection, recreation, local road maintenance, street lighting and some public health services. Different arrangements apply to the provision of education, health, water and sewerage. The extent to which local authorities have such responsibilities depends on their capacity to deliver, and the formal delegation of responsibility by either or both of the Ministry of Local Government and the sector ministry. Seven local authorities (the cities of Nairobi, Mombasa and Kisumu, and the municipalities of Nakuru, Eldoret, Thika and Kitale) are education authorities, responsible for the construction and maintenance of pre-primary, primary and secondary education facilities. Other local authorities provide only pre-primary education facilities and services.

The same seven authorities provide basic and preventative health services, largely through clinics (although Nairobi has a hospital), together with health education services. Most health services are provided through the district-based system of health management boards and teams. The number of those providing water services is also limited. Local authorities must secure approval from the Ministry of Local Government and the Ministry of Environment and Natural Resources. Few authorities provide housing, but they are responsible for housing-related services including land procurement and sub-division, supervision of works and construction, and approval of building plans.

References and useful websites

1. Kenyan National Bureau of Statistics www.knbs.or.ke
Census 2009
www.knbs.or.ke/Census%20Results/KNBS%20Brochure.pdf
2. UN statistics <http://unstats.un.org/unsd/demographic/prducts/dyb/dyb2008/Table03.pdf>
3. IMF statistics www.imf.org/external/data.htm



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

Service	Delivering authority			Remarks
	Central Government	Districts	Local Government	
GENERAL ADMINISTRATION				
Police				
Fire protection			■	
Civil protection				
Criminal justice				
Civil justice				
Civil status register				
Statistical office	■			
Electoral register	■			
EDUCATION				
Pre-school			■	
Primary		■	■	Seven local authorities only
Secondary		■	■	Seven local authorities only
Vocational and technical		■		
Higher education				District responsibilities primarily oversight & monitoring
Adult education		■	■	
SOCIAL WELFARE				
Kindergarten and nursery			■	
Family welfare services			■	
Welfare homes			■	Also self-help groups
Social security	■		■	
PUBLIC HEALTH				
Primary care		■	■	Limited number of LAs, also private and NGOs
Hospitals		■	■	Nairobi only
Health Protection		■	■	
HOUSING AND TOWN PLANNING				
Housing			■	
Town planning			■	Primarily housing-related services
Regional planning		■		
TRANSPORT				
Roads	■		■	Kenya Roads Board (KRB) contracts with road agencies
Transport				
Urban roads	■		■	
Urban Rail				
Ports				
Airports				
ENVIRONMENT AND PUBLIC SANITATION				
Water and sanitation			■	
Refuse collection and disposal			■	Also self-help groups
Cemeteries and crematoria			■	
Slaughterhouses			■	
Environmental protection			■	Primarily in rural areas
Consumer protection				
CULTURE, LEISURE AND SPORTS				
Theatre and concerts				
Museums and libraries			■	
Parks and open spaces			■	
Sports and leisure			■	
Religious facilities				
UTILITIES				
Gas services				
District heating				
Water supply	■		■	Also private rural self-help groups
Electricity			■	Large urban councils only
ECONOMIC				
Agriculture, forests and fisheries				
Economic promotion				
Trade and industry			■	Trade licensing
Tourism				
Other economic services				

■ = Discretionary service by the local authority