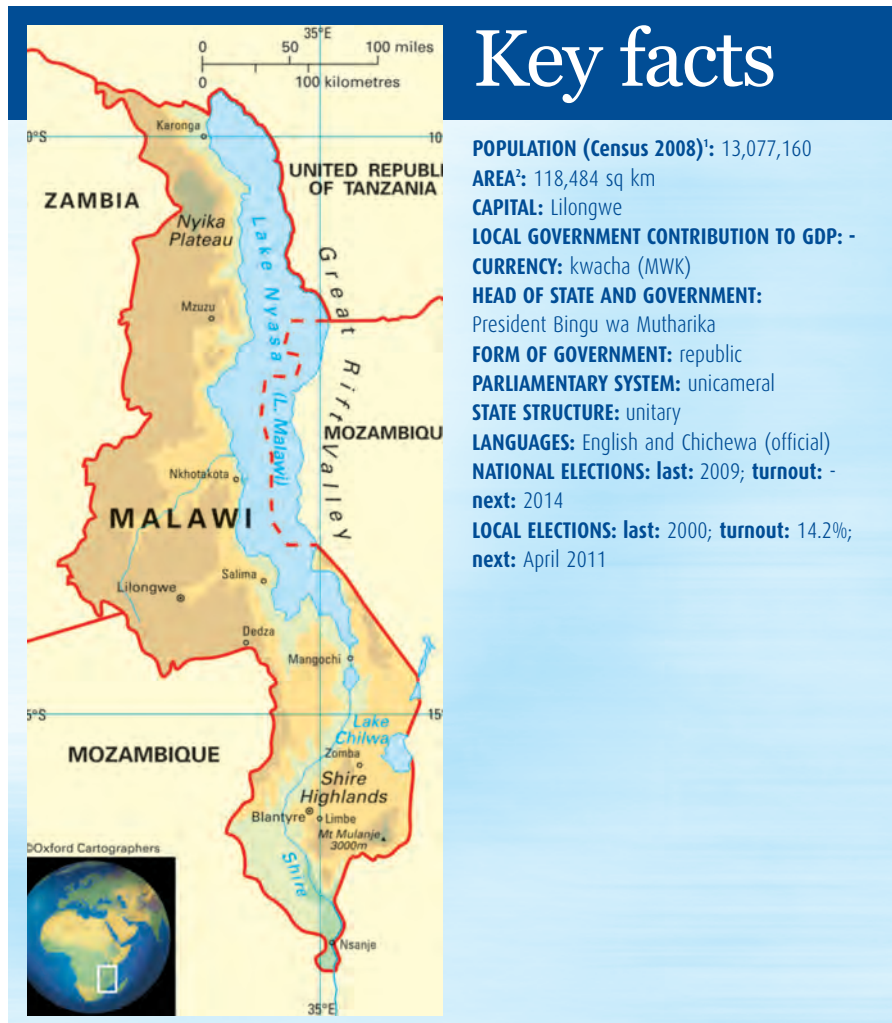




## The local government system in

# Malawi



## Key facts

**POPULATION (Census 2008):** 13,077,160  
**AREA:** 118,484 sq km  
**CAPITAL:** Lilongwe  
**LOCAL GOVERNMENT CONTRIBUTION TO GDP:** -  
**CURRENCY:** kwacha (MWK)  
**HEAD OF STATE AND GOVERNMENT:**  
 President Bingu wa Mutharika  
**FORM OF GOVERNMENT:** republic  
**PARLIAMENTARY 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 2011

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 (16 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 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. 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:

In 2005, following the end of the full five year term after the 2000 elections, councils were dissolved. There have been no elected councillors in Malawi since.

### 3.2 Ministerial oversight:

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

### 3.3 Council types:

The local government system has 34 single-tier local authorities called councils. The 28 district

## 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 34 single-tier authorities: 28 rural district councils, and two municipal councils. The councils are responsible for raising and collecting local taxes and user fees and charges; however, the majority of their revenue comes through 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 vice-president is designated as the first vice-president. Malawi's parliament. The National Assembly, has



**Table 2.** Distribution of councils and population (Census 2008)

Region	Local authorities			Population (Census 2008)	% rural
	Districts	Cities	Townships		
Northern	6	1	1	1,708,930	85.9
Central	9	1	3	5,510,195	84.9
Southern	12	2	4	5,858,035	84.1
<b>TOTAL</b>	<b>28</b>	<b>4</b>	<b>8</b>	<b>13,077,160</b>	<b>84.7</b>
Largest	1,228,146	669,021	41,074	-	-
Smallest	10,445	128,432	10,751	-	-

Source: National Statistics Office<sup>1</sup>

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 to look after the welfare and needs of the 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, they have discretion to discharge any of their functions jointly and may set up joint committees for these purposes.

**3.3.1 District councils** are predominantly rural and are co-terminous with the former administrative districts. They 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, 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 development committees (DDCs), 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 are not congruent with 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 Vision 2020, 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. The mayors are non-executive and 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 office is for two-and-a-half years with the possibility of re-election once.

#### 3.4 Traditional leadership:

Within the traditional leadership structure each village has a Group Village Headman (GVH), selected by the village headmen, and

responsible for five or more villages. The traditional authority (TA) positions are hereditary, the chieftancy clan nominates the traditional leader. At the most senior level a sub-chief has responsibility for a number of TA, 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 most recent local government elections were held in 2000, with a 14.2% turnout. The scheduled 2010 elections were postponed until April 2011.

### 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 apposed 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.



#### 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:

No information provided for this edition.

#### 5.2 Implementation:

District councils are responsible for the overall development of their areas and are required to support the participation of 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 in 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 the 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.

### 7. INTERGOVERNMENTAL RELATIONS

Intergovernmental relations are prescribed by 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 to create an enabling environment for 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 the line ministries and the MLGRD in relation to the councils. Line ministries maintain direct links with the district councils over policy issues. They are also responsible for training and monitoring compliance with policy guidelines
- The Inter-Ministerial Technical Committee on Decentralisation (IMTCD), 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.

### 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 2008/2009 was Malawian kwacha (MK) 15bn (US\$105.6m). In 2007/2008 the total aggregate expenditure of local government was MK9.5bn (US\$63m), representing 95% of the approved budget of the councils.

#### 9.1 Locally raised revenue:

The councils are responsible for raising and collecting local taxes and user fees and charges. They may, however, make arrangements with another council, or other bodies or individuals, to collect fees and charges on their behalf where the arrangement is administratively efficient. The Local Government Act 1998 does not prescribe any ministerial supervision of locally determined taxes and user fees and charges.

#### 9.2 Transfers:

Government transfers to the councils are in the form of conditional (sectoral funds) and unconditional (general resource funds) grants. Local governments may get further external

assistance from sister cities or other non-governmental organisations. However, the approval of the Minister of Local Government is required where assistance to a council is provided by an NGO. All external assistance must be routed through the Ministry of Finance except that from sister cities.

The non-tax revenue to be ceded to the councils is specified in both the government's decentralisation policy statement and the legislation. It includes toll fees, gambling and casino fees, fuel levy, road maintenance levy, motor registration fees and industrial registration fees. These revenues are collected by central government, and redistributed to the councils using an intergovernmental fiscal transfer formula approved by the cabinet. The procedures for ceding revenues, and the supporting institutional and distribution mechanisms, have been finalised but not implemented.

In 2008/2009 MK10.8bn (US\$76m) was transferred to local governments. These funds were:

- Sector grants 86%
- General Resource Fund (GRF) 5%
- Salary subsidy 2%
- Chiefs' honoraria 7%.

Provision is made for at least 5% of net national revenues (excluding grants debt servicing and other statutory obligations) to be made available for district development. The distribution of this grant, the General Resource Fund (GRF), is made by government based on the recommendations of the LGFC, and is one component of an intergovernmental fiscal transfer system which, when fully implemented would include unconditional grants, sectoral grant allocations, an education fund, an agriculture fund and a health fund. It is set in accordance with a formula approved by the national assembly. In 2010/2011 MK13bn (US\$85m) GRF, as well as sectoral grants to 14 sectors, was transferred to local councils. The formula takes into account both population size and level of development, using agreed poverty indicators.

Development funds to districts were previously channelled through the District Development Fund (DDF). The DDF, established in 1993, was a facility for managing, allocating and monitoring finance for small-scale investments and other development activities. The DDF was reviewed and discontinued, in its place there is the Local Development Fund (LDF), a nationwide financing mechanism for local development that integrates government and donor assistance in a basket funding unconditional grant mechanism. Between 2009/2010 and 2010/2011 the LDF was worth



MK5.46bn (US\$35m). This serves as a precursor and guide for the potential long-term development of the new intergovernmental fiscal transfer system.

### 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 removed responsibility for the recruitment of senior management staff from the councils to the Local Government Service Commission (LGSC). 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, and eventually disbanded. It has now been re-activated as an interim measure until councils have the capacity to assume full recruitment responsibilities.

Councils retain responsibility for all other staffing matters, they also have discretion to second 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, nor is any departmental structure other than the requirement to establish an internal audit department.

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.

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, these are usually different for districts and municipalities.

## 10. DISTRIBUTION OF SERVICE DELIVERY RESPONSIBILITY

The legislation and the decentralisation policy, give councils responsibilities 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.

### References and useful websites

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3. IMF statistics [www.imf.org/external/data.htm](http://www.imf.org/external/data.htm)
4. Ministry of Local Government and Rural Development [www.mlgrd.gov.mw](http://www.mlgrd.gov.mw)
5. Government of Malawi [www.malawi.gov.mw](http://www.malawi.gov.mw)
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8. Malawi Election Commission [www.mec.org.mw](http://www.mec.org.mw)
9. Local politics meet gender politics in Malawi's municipal elections  
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**Annex A.** Summary of service provision in different spheres of government

Service	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 liason 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