

# **Water sector accountability review: Malawi**

## ***Water Resource Management and Overarching Water Sector Governance***

## ***Executive summary***

Improved governance is a critical key to unlocking progress towards universal access to water supply and sanitation, shared water security, climate resilience and water-related Sustainable Development Goals. At the heart of improved water governance lies stronger accountability.

This report documents the findings of a review of accountability within Malawi's water sector, specifically water resource management (WRM) and overarching sector governance. The study comprises two sections, a de jure and a de facto assessment. The de jure assessment evaluates the degree to which accountability for essential water sector functions is provided for within Malawi's legal framework. The de facto review considers how effectively accountability is executed in practice. The aim is to support more robust water governance through highlighting strengths and weaknesses in policy and practice and providing constructive recommendations for improved performance.

### **Water Resource Management**

Across the majority of functions examined for water resource management, **Malawi's legal and policy framework performs well in establishing clear rules and statutory responsibilities**. However, there are **significant examples where responsibilities lack clarity or overlap**:

1. For setting **environmental standards, targets and objectives**, the law assigns overlapping responsibilities to the Malawi Bureau of Standards (MBS), the National Water Resources Agency (NWRA) and the Malawi Environmental Protection Authority (MEPA).
2. For **planning** for water resource provision, different water laws assign the lead to the NWRA and the Ministry of Water and Sanitation (MoWS).
3. For water **pollution control** responsibilities overlap between NWRA and MEPA.

### **Key findings highlighted as areas in need of significant strengthening are:**

1. **Assessment of future water demand and setting of environmental standards** lack provisions for **specific performance monitoring guidelines to support performance review** in both legislation and policy.
2. Provisions for imposing **adaptive management, corrective measures and penalties** for poor performance are either absent or weak both for assessment of future demand and environmental standards, targets, and objectives.

The de facto findings show that the legislative framework is **robust in practice**. However, significant weaknesses are **observed in responsibilities, performance monitoring and corrective measures**. In particular:

1. At the time of the interviews, key WRM functions had not been handed over from the MoWS to the NWRA, as stipulated by the Water Resources Act 2013. The NWRA has since reported that the authority and the MoWS have solved this issue and the NWRA is in control of WRM functions.

2. There is ambiguity as to who holds the mandate to execute water pollution control between MEPA, MBS, NWRA and City Councils.
3. Functions for groundwater protection are duplicated between MoWS and NWRA.
4. Assessment of future demand is only partly implemented by NWRA, as comprehensive water resources plans for the use, management, and administration of water resources are not prepared or reviewed regularly.
5. At the time of the interviews, the NWRA was not able to enforce fines and penalties and take legal action because it is not fully operational and underfunded. The NWRA has since reported that the authority is operational and enforcing fines and penalties.
6. Data for hydrometric and water quality monitoring is lacking.
7. Reporting flows between MoWS and NWRA were reported to be unclear and inefficient during interviews. The NWRA has since noted this issue has been addressed.

## 1. Overarching Water Sector Governance

Malawi's legal and **policy framework performs well** across most of the overarching aspects of water sector governance examined, laying out clear rules and statutory responsibilities. However, the **Public Service Act 1994 accords the President overall powers**, which could impact the independence of appointments and decision-making from political or other undue influence, affecting performance management. **Performance monitoring and review are weak**, with poor provisions for imposing adaptive management where stakeholder oversight and participation is required.

The de facto findings show **significant challenges in performance monitoring and adaptive management implementation** regarding sector governance, stakeholder oversight and participation and performance management. These are generally due to the absence or ineffective delivery of several performance management and stakeholder participation tools prescribed by the law, including **the Joint Water Sector Review (JWSR), the Sectoral Working Groups, and the Water Tribunal**. Poor understanding of water legislation, lack of transparency and political interference also weaken accountability practices in OSG.

### Recommendations

The evidence highlights significant opportunities to strengthen accountability and drive improvements across Malawi's water sector, benefitting Malawi's people, economy and environment. To seize these opportunities, what needs to change?

1. **To perform its role successfully, the NWRA needs revitalisation and strategic investment**, the achievement of which requires clear Government leadership. The NWRA noted a process of revitalisation has started. The process is in its infancy and therefore requires monitoring and support from partners.
2. **The annual Joint Water Sector Review (JWSR) process needs to be strengthened as a performance reporting mechanism** under the leadership of the MoWS with the support of the water sector stakeholders (e.g. Government bodies, CSOs, development partners, private sector).

3. **The establishment of the Water Tribunal** by the Government is essential to ensure oversight in promoting accountability.
4. **Bottom-up processes of community-driven social accountability** monitoring must be supported by CSOs to ensure these necessary participatory processes function.
5. **Policy review, legislative reform and statutory guidance provision** by the Government, are necessary to address gaps in legislation on setting environmental standards, planning for water resources and for pollution control.
6. **The recommendations of the Auditor General's report** should be systematically followed up by CSOs through the JWSR.
7. **Improved and new mechanisms for financing the water sector** need to be identified and implemented by the Government with the support of wider stakeholders in the water sector.
8. **Better public access to information** is necessary **to enable citizens of Malawi to have a robust understanding of water laws and procedures**, with the leadership of the MoWS and support of wider stakeholders in the water sector.

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## ***Summary of abbreviations***

<b><i>Abbreviation</i></b>	<b><i>Explanation</i></b>
<i>ACB</i>	Anti-corruption Bureau
<i>CPA 2004</i>	Corrupt Practices Act 2004
<i>CSOs</i>	Civil Society Organisations
<i>EMA 2017</i>	Environmental Management Act 2017
<i>JWSR</i>	Joint Water Sector Review
<i>MBS</i>	Malawi Bureau of Standards
<i>MEPA</i>	Malawi Environmental Protection Authority
<i>MoWS</i>	Minister for Water and Sanitation
<i>NMP 2019</i>	National Meteorological Policy 2019
<i>NWP 2005</i>	National Water Policy 2005
<i>NWRA</i>	National Water Resources Agency
<i>OSG</i>	Overarching sector governance
<i>PSRMU</i>	Public Sector Reforms Management Unit
<i>WRA 2013</i>	Water Resources Act 2013
<i>WRM</i>	Water resource management
<i>WRR 2018</i>	Water Resources Regulations 2018

## 1. Introduction

Improved water security is fundamental to attaining Malawi's development ambitions, supporting the achievement of the Malawi Vision 2063 and the UN Sustainable Development Goals (SDGs).<sup>1</sup> However, challenges in legislative frameworks and their implementation hinder the performance of the water sector.

Effective governance and implementation of institutional arrangements are critical determinants of sector performance (UNDP 2006). Governance means the rules, institutions, processes, and practices which articulate interests, take decisions, regulate human behaviour and exercise power (Ernstorfer and Stockmayer 2009). In the water sector, these make up the system that determines who gets what water and water services, when and how (SIWI, WIN and UNDP 2013). A growing body of evidence both within and outside the water sector show how efforts to strengthen accountability can drive improved governance and services, benefiting the most vulnerable (Hepworth, Brown and Brewer 2020).

This systematic evaluation assesses how well accountability is provided for both on paper (*de jure*) and in practice (*de facto*) across Malawi's legislative frameworks for water resource management (WRM) and overarching sector governance (OSG). The study highlights systemic bottlenecks across these two areas and provides constructive recommendations for improved performance. The aim is to support more robust water governance needed to overcome Malawi's water security challenges and to unlock improved environmental protection, health and wellbeing, and economic growth for its people.

## 2. Methodology and approach

The study uses a methodology developed by the global [Accountability for Water](#) programme. The process incorporates ideas important to accountable governance, such as transparency, participation, integrity, and system strengthening, and draws from various existing approaches and methodologies.

The study focuses on performance in WRM and OSG, which includes the cross-cutting provisions for good governance, such as judicial independence, parliamentary scrutiny, and ombudsperson functions. In summary, the methodology involves the following steps:

1. Identification of **key functions** the water sector should perform in water resource management as well as the cross-cutting functions of the governance setting.
2. Assessment of performance against each function across a simplified **accountability cycle** (Figure 1), through:
  - a. A review of the current **de jure**, or 'on paper', performance and scoring based on how well existing policy, legislation, regulations and statutory guidance in Malawi provide for accountability.<sup>2</sup>
  - b. A review of the **de facto**, or 'real' performance through key informant interviews to assess how well each performs in practice.

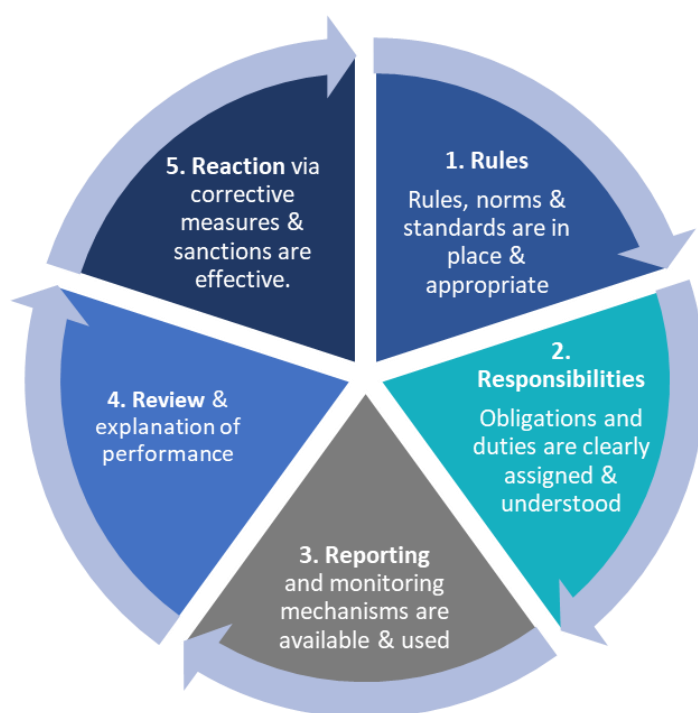
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<sup>1</sup> Water security is defined as universal access to safe water, sanitation and hygiene, the water needed for livelihoods to thrive, and protection against floods, drought, water conflict, pollution & eco-system degradation.

<sup>2</sup> **De facto** means a state of affairs that is true in fact – an 'on the ground' reality which may diverge from that which is officially sanctioned. In contrast, **de jure** means a state of affairs that is set out in, and in accordance with law (i.e. that is officially sanctioned).

3. Based on this assessment of strengths, weaknesses, overlaps and gaps, essential **recommendations** are made for strengthening accountability and performance in water resource management across the sector.

Accountability performance is reviewed across a simplified 'accountability cycle' (Figure 1). Accountability is a simple notion but also a complex area of theory, policy, and practice. To handle this complexity, we have drawn on existing literature to propose a simplified conceptual framework that can be applied in multiple contexts or settings. Each step of the cycle is essential to create strong incentives for delivery and continual improvement and to ensure responsive governance, legitimacy and trust between communities, government, civil society and delegated service providers.



*Figure 1: The 5 R's of a simplified accountability cycle applicable to water sector functions*

Our methodology proposes that accountability for water can be understood, described and fulfilled through five basic steps:

1. The existence of appropriate **rules and standards**;
2. Fulfilment of clearly assigned **responsibilities and duties**;
3. **Reporting and monitoring** of performance against these;
4. **Review and disclosure** of performance, which in turn informs;
5. An **appropriate and effective reaction** through improved practice, reformed policy, or imposition of new incentives, sanctions or enforcement.

The accountability cycle of 'rules', 'responsibilities', 'reporting', 'review' and 'response' is helpful for understanding and analysing governance performance and for pinpointing and addressing implementation challenges. It encompasses key elements of integrity by



considering transparency in terms of clarity of roles and access to information, participation in making rules, monitoring and reviewing performance, and triggering corrective action. This study combined the assessment of steps three, reporting, and four, review, to simplify the review process.

The simplified “5Rs” accountability cycle can be applied across multiple domains of accountability: from individual, social, contractual, to legal and political accountability. The omission or weakness of any one step within the cycle invites an accountability trap of unchecked poor performance, whether that be of a farmer over-abstracting water, a multi-national corporation causing pollution, a failing utility, a ‘briefcase’ non-governmental organisation or an under-resourced Ministry.

Eight key functions of WRM were identified for the analysis: **monitoring, future demand assessment, setting environmental standards and objectives, planning, abstraction permitting, groundwater protection, pollution control, impact assessment and control**. For overarching water sector governance, five essential functions were identified for analysis: **sector governance framework; anti-corruption policy and law; public finance and procurement; stakeholder oversight and participation and performance management**.

These WRM and OSG functions were reviewed to score how well accountability is provided for in theory and practice. The first step was to examine the legal and policy framework (de jure). Documents reviewed are listed in this report's results and references sections and include key acts, regulations, policies and reports. Secondly, interviews were carried out with technical and senior officers within Government to assess how well accountability is provided for in practice. For this study, 17 (three female) representatives from the following institutions were interviewed: Ministry of Water and Sanitation, National Water Resources Authority, Office of the Ombudsman, Malawi Bureau of Standards, Anti-corruption Bureau, Public Procurement and Disposal of Asset Authority and Water, Environment and Sanitation Network.

The intention is to provide a simple framework that is cost-effective to apply, easy to interpret and accessible to multiple stakeholder groups, helping:

- **Government** to target interventions for improved service delivery, responsiveness to citizens’ and water users’ needs, and ensure socially and economically beneficial water use.
- **Communities, civil society and businesses** as a means of unlocking positive change and action to improve water security for social, environmental, and economic water use.
- **Donor/development community** to pinpoint priorities for technical support and to improve aid efficacy in the water sector.

## 3. Results: Water Resources Management

### 3.1 Key functions and Institutions

This section provides background on the WRM functions prescribed to key Government of Malawi (the Government) institutions. This information was collected through the de jure and de facto components of the study.

#### A. National Water Resources Authority

The National Water Resources Authority's (NWRA) mission is to manage the nation's water resources. Malawi's Water Resources Act (WRA) 2013 and Water Resources Regulation (WRR) 2018 assign the following critical functions to NWRA:

1. **Hydrometric and water quality monitoring.**
2. **Assessment of future demand** through the National Water Resources Master Plan, including the necessary coordination of all relevant stakeholders.
3. Providing technical advice on **environmental standards, targets, and objectives for environmental** protection and pollution control.
4. **Planning for water resource provision** to ensure sustainable water allocation.
5. **Water abstraction permitting.**
6. **Protecting groundwater protection** through regulating groundwater resources are utilisation, management and allocation of borehole drilling by contractors.
7. **Pollution control** through issuing effluent discharge permits.
8. **Management of catchments.**

#### B. Malawi Environmental Protection Agency

The Malawi Environmental Protection Agency (MEPA) is the principal authority for improving and managing the environment. Concerning WRM, the Environmental Management Act (EMA) 2017 assigns MEPA the critical function of **social and environmental impact assessment and development control**, the implementation of this function being guided by the Environmental Impact Assessment Guidelines. According to the law, MEPA is the lead authority for all pollution control activities, including monitoring. As prescribed by the WRA and WRR 2018, NWRA advises MEPA on water quality, hydrogeological and hydrological assessments. However, depending on the project's focus, various water divisions within the Ministry of Water and Sanitation (MoWS), such as Water Quality, Water Supply, Groundwater and Surface Water Divisions, fulfil the advisory role on behalf of NWRA. However, the NWRA has noted that it is now operational therefore these arrangements are changing.

In addition, the EMA 2017 mandates MEPA to liaise with relevant lead agencies to prescribe **environmental quality standards, prepare plans and develop strategies** for the protection and management of the environment and the conservation and sustainable utilisation of natural resources.

## A. Malawi Bureau of Standards

Malawi Bureau of Standards (MBS) is the National Standards Body for Malawi, responsible for preparing and publishing standards and their dissemination and implementation through conformity assessment. The MBS is responsible for setting **environmental standards** for WRM.

The MBS, through the Environmental Protection and Pollution Control Technical Committee, developed the Malawi Standards for water protection, which include:

- **Wastewater and effluent discharge limits**, based on the World Health Organization's Guidelines and the International Organization for Standardization's standards.
- **Tolerance limits for sewage and industrial effluent** discharged into surface water, based on international Indian and Zimbabwean Standards.

## 3.2 How well is accountability for WRM provided for on paper?

The results dashboard is set out in Table 1 below and is supported by a summary data sheet in Annex 1. These provide complete references to the original materials upon which the assessment is made and justification of each score.

Across all key functions of WRM, **rules, processes and standards** are clearly articulated in policy and law. **Responsibilities** for delivery are generally well articulated, although there is some overlap and confusion between policies, causing weakness in the accountability cycle for environmental standards, water resource planning and pollution control. Provisions for **monitoring performance** and **corrective measures**, the final two steps of the accountability cycle, are not present or weak for two of the eight areas examined; assessment of future demand and environmental standards, targets and objectives. Performance against each accountability step is summarised in the following sections.

**Table 1. Summary results of the de jure assessment of accountability provisions across key functions of Malawi's Water Resource Management sub-sector. The steps of the accountability cycle are scored for each key function in accordance with the following scoring system: 0 – not present [RED], 1- weak [ORANGE], 2 – intermediate/partial [YELLOW], 3 – strong [GREEN]** for each phase & sub-question/characteristic.

<i>How well does Malawi's policy and legislative framework provide for</i>				
	<i>Rules, processes, and standards</i>	<i>Responsibilities and duties</i>	<i>Performance monitoring and review</i>	<i>Corrective measures, incentives and sanctions</i>
1. Hydrometric & water-quality monitoring	Strong	Strong	Strong	Strong
2. Assessment of future demand	Strong	Strong	Weak	Not present
3. Environmental standards, targets, and objectives	Strong	Partial	Weak	Weak

4. Planning for water resource provision	Strong	Weak	Strong	Strong
5. Water abstraction permitting	Strong	Strong	Strong	Strong
6. Groundwater protection	Strong	Strong	Strong	Strong
7. Pollution control	Strong	Weak	Strong	Strong
8. Social and environmental impact assessment and development control	Strong	Strong	Strong	Strong

### 3.2.1 Rules and responsibilities

Rules, processes and standards for all essential WRM functions are clearly laid out in the WRM legislative documents, such as the WRA 2013, the WRR 2018, the National Water Policy 2005 (NWP 2005), the EMA 2017 and the National Meteorological Policy (NMP) 2019.

Roles and responsibilities are largely clearly documented for monitoring, water abstraction permitting, groundwater protection, pollution control and social and environmental impact assessment and development control. However, regarding responsibilities, some noteworthy exceptions should be highlighted: there are several overlaps without clarification of how these should be managed. The EMA 2017, WRA 2013 and NWP 2005 assign **responsibility for environmental standards, targets, and objectives to multiple actors**, such as MBS, NWRA and MEPA. However, the legislation does not define who is ultimately responsible for overseeing the finalisation of standards, targets and objectives. In addition, there is an **overlap between the NWRA and the MEPA on pollution control responsibilities**, specifically on effluent discharge permitting. The WRA 2013 affords the NWRA the lead role in pollution control, while the EMA 2017 affords the MEPA the power to issue an effluent discharge licence into the aquatic environment. Finally, there are **overlaps between the NWRA and MoWS's responsibilities in planning for water resources**. The WRA 2013 assigns the responsibility for planning to the NWRA, while the NWP 2005 gives the leading role to the MoWS. However, since becoming operational, the NWRA has stated this overlap has been rectified.

### 3.2.2 Performance monitoring and corrective measures

The WRA 2013, WRR 2018, NWP 2005 and NMP 2019 set out performance monitoring provisions for most WRM functions. The WRR 2018 and other guidelines also include provisions for fines, penalties and even prison sentences for failure to comply with legal requirements, such as:

- hydrometric & water-quality monitoring,
- abstraction permits,
- planning for water resources,
- wastewater discharge permits,
- groundwater/drilling licences,

- environmental and social impact assessments.

While such sanctions are clear, incentives to encourage the uptake of the legal requirements are less apparent.

The legal provision for assessing future demand and environmental standards, targets and objectives is weak. The policies and laws set monitoring requirements, but no performance monitoring guidelines are set for these functions. In addition, provisions for corrective measures, incentives and sanctions are either missing or incomplete for both functions. This means there are no precise mechanisms to hold authorities accountable for their performance on critical functions of monitoring and planning.

### 3.3 How well is accountability for WRM provided for in practice?

Table 2 shows the dashboard illustrating how effectively accountability is executed in practice i.e. the de facto results. Accountability was strong across all four steps of the accountability cycle for two functions: environmental standards and impact assessments. Clear laws and mandatory systematic project approval and decision-making process has reinforced the practice for these functions. However, the de facto analysis identified several opportunities for strengthening accountability for all other functions. Importantly it was noted that, in practice, the MoWS continues to implement several functions assigned by the legislative framework to the NWRA. This creates confusion regarding implementation.

**Table 2. Summary results of the de facto assessment of accountability provisions across key functions of Malawi’s Water Resource Management sub-sector. The steps of the accountability cycle are scored for each key function in accordance with the following scoring system: 0 – not present [RED], 1- weak [ORANGE], 2 – intermediate/partial [YELLOW], 3 – strong [GREEN] for each phase & sub-question/characteristic.**

<i>How well does Malawi’s policy and legislative framework provide for</i>				
	<i>Rules, processes, and standards</i>	<i>Responsibilities and duties</i>	<i>Performance monitoring and review</i>	<i>Corrective measures, incentives and sanctions</i>
1. Hydrometric & water-quality monitoring	Strong	Partial	Partial	Weak
2. Assessment of future demand	Strong	Partial	Weak	Weak
3. Environmental standards, targets, and objectives	Strong	Strong	Strong	Strong
4. Planning for water resource provision	Strong	Partial	Weak	Weak
5. Water abstraction permitting	Strong	Strong	Weak	Weak
6. Groundwater protection	Strong	Partial	Weak	Weak
7. Pollution control	Strong	Partial	Weak	Partial

8. Social and environmental impact assessment and development control	Strong	Strong	Strong	Strong
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### 3.2.1 Rules and responsibilities

Despite the laws and policies clearly setting out the rules and processes for all essential functions examined, implementation of key responsibilities was partial for several functions, including monitoring, assessment of future demand, planning, groundwater protection and pollution control.

Key informant interviews revealed that the following issues undermine the performance of responsibilities across several key functions:

1. **Key WRM functions have not been handed over from the MoWS to the NWRA**, as stipulated by the WRA 2013. For instance, hydrometric and water quality monitoring and groundwater protection functions have remained the Ministry’s responsibility. Water abstraction permitting and planning for water resource provision are exceptions handed over to NWRA. Since the process of revitalisation of the NWRA has begun, the authority has stated new arrangements are in place with the MoWS to coordinate on the delivery of key functions.
2. Coordination on **pollution control functions** is lacking. The EMA 2017, WRA 2013 and NWP 2005 assign aspects of the function to multiple actors. The MEPA, MBS, NWRA and City Councils are assigned mandates to execute pollution control. MEPA oversees all environmental pollution control activities, including water; MBS has developed industrial effluents standards through the Environmental Protection and Pollution Control Technical Committee; NWRA is solely focused on water pollution, and issues discharge permits; City Councils manage and control wastewater and solid waste. However, guidelines on how these actors should coordinate are missing.
3. **Functions for groundwater protection are duplicated.** Both the Groundwater Division within the MoWS and the NWRA have been accorded supervisory roles for borehole drilling. As a result, it is unclear as to who is responsible for overseeing, managing, and monitoring groundwater protection functions. NWRA noted this role is now under the NWRA, as stipulated in the WRA 2013.
4. **Assessment of future demand is only partly implemented.** The NWRA is responsible for developing a National Water Resources Plan, including collecting data on future water demands and creating plans for water resource provision. In practice, the NWRA only partially addresses this as it does not model water resources for allocation consistently. The authority therefore failed to regularly develop and review a comprehensive water resources plan for the use, management, and administration of water resources. The NWRA has confirmed that it is now operational and is geared to carry out this functions effectively and efficiently.

### 3.2.2 Performance monitoring and corrective measures

In looking at how effectively accountability is executed in practice, the findings indicate significant challenges in both monitoring and corrective measures. These challenges point to a lack of enforcement by authorities and a lack of clarity as to who oversees the implementation, review and reporting of specific functions.

Key informant interviews revealed the following:

- 1- At the time of the interviews, **the NWRA could not enforce fines and penalties and take legal action**. The WRR 2018 provides the NWRA with the responsibility to enforce regulations regarding water abstraction, effluent discharge and groundwater drilling. In practice, however, the NWRA could implement corrective measures because it was not fully operational and lacked funding. In addition, interviewees stated that perpetrators perceive fines for illegal wastewater discharge issued by MEPA to be low and, in most cases, of no real consequence. During the de facto study interviews, NWRA representatives stated that most institutions and industries did not comply with water resources regulations. Inspection reports indicate that most industries and factories do not have wastewater treatment facilities or inadequate facilities. However, since then NWRA noted the authority is undergoing a process of revitalisation to address these issues. The NWRA stated it is now fully funded through its own sources and has begun implementing corrective measures, enhancing compliance.
- 2- There is a **lack of data for hydrometric and water quality monitoring**, despite explicit rules and responsibilities to collect this data. Currently, 90% of groundwater quality monitoring is done based on client requirements. This results in fragmented groundwater data. Furthermore, the surface water division have indicated that majority of the gauging stations are not functioning. This affects hydrometric and water quality monitoring, including wastewater and ambient monitoring.
- 3- Administratively, there is **confusion in reporting lines across most functions**. For example, according to the current reporting procedure, the Water Quality Division of the MoWS submits water quality and wastewater discharge reports to the NWRA. However, the division still sits within the MoWS and is administratively required to report to the Director of Water Resources Management under the same Ministry. The NWRA noted this is being corrected.

### 3.3.3 Underlying factors

The de facto analysis identified underlying factors restricting the implementation of water resource management functions:

- a. **The MoWS and NWRA are understaffed**, stemming from political leaders failing to prioritise the water sector. This means the institutions lack the personnel to carry out key functions adequately. For example, hydrometric monitoring has no permanent

staff assigned to support data collection from gauging stations, and some gauges stations have been vandalised and never repaired.

- b. **Limited funding** affects the implementation of WRM functions. For example, NWRA lamented the lack of funds to conduct scheduled inspection visits and sensitisation campaigns targeting water users on the requirements of having water permits. However, since the revitalisation process has started, the NWRA has stated it has the funding to carry out scheduled inspections.
- c. **There is poor coordination** between NWRA and MoWS departments in data sharing and reporting. For example, while Water Quality, Surface and Groundwater Divisions must submit reports to the NWRA, only the Water Quality Division submits them. Due to low availability of real-time data, the Groundwater Division is challenged in assessing trends in water availability and advising on groundwater development, planning and management. A stronger data collection and coordination approach would facilitate data flows across organisations.
- d. **At the time of the interviews, NWRA was not fully operational.** Most staff was on secondment from the MoWS, and the authority was lead by acting CEO. The acting CEO was restricted from making decisions that will influence the direction of the institution, affecting the authority's effectiveness. Since then, a new Executive Director has been appointed and the NWRA has stated vacancies are being recruited and the authority is operational.

## 4. Results: Overarching Sector Governance

### 4.1 Key functions and Institutions

This section provides background on OSG functions prescribed to key Government of Malawi (the Government) institutions. This section provides background on the OSG functions, collected through the de jure and de facto components.

#### C. The Office of the Ombudsman

The Office of the Ombudsman is to ensure that all public institutions work effectively, efficiently, and that they adhere to democratic principles of openness, fairness, responsiveness, and accountability. Particularly they are to investigate all cases where it is alleged that a person has suffered injustice and there is no other remedy available.

Overall, the office of the Ombudsman provides **oversight** by offering a public complaint and inquiry system to protect the public against administrative injustice and ensure adherence to quality service delivery within the public sector.

#### D. Anti-corruption policy and law



The Anti-Corruption Bureau (ACB) was created as a stand-alone organization to oversee efforts to combat corruption. The Corrupt Practices Act (CPA) of 2004 gives the ACB the authority to carry out four key tasks: corruption prevention, public education, corruption investigations, and corruption prosecutions. To ensure that corruption is addressed from within institutions, the ACB works with public and private institutions to establish corruption prevention measures. To win support for the battle against corruption, public education involves increasing awareness of corruption-related issues. The ABC conducts investigations into alleged suspected offenses and, if necessary and with the approval of the Director of Public Prosecutions, brings charges against those responsible under the CPA 2004, Financial Crimes Act 2017, Criminal Procedure and Evidence Code, and any other applicable laws.

#### **E. Ministry of Water and Sanitation**

The NWP 2005 assigns the MoWS as the lead agency to provide policy direction and coordination across water sector programmes. The policy acknowledges that WRM requires an **institutional governance framework** with an integrated approach involving several stakeholders. Thus the policy outlines institutional roles, responsibilities and relationships among key stakeholders, including MoWS, the NWRA, Water Utilities, Local Governments, Ministry responsible for Agriculture, Ministry responsible for Irrigation, Ministry responsible for Natural Resources, Ministry responsible for Health, Ministries responsible for Gender, Youth and Community Services, Ministry responsible for Education, Ministries responsible for Lands, Physical Planning and Human Settlements, as well as Civil Society, private sector and Universities.

The Malawi National Water Resources Master Plan (2018) highlights several **policies and the legal framework** for national water development. The key policies and legislation related to water resources management include WRM 2013, Water Works Act (1995), National Water Policy (2005) and the National Sanitation Policy (2008). Other strategic policy documents include the Malawi Vision 2063 which states that Malawi envisions a long-term aspiration for sustainable management of the environment, including: adequate waste disposal, treatment and recycling; air and water pollution management; and prudent water resource management. The National Water Resources Master Plan also describes short-, medium- and long-term strategic plans for national water development.

#### **A. Parliamentary Committee on Natural Resources**

Sections 8 and 66 of the Constitution of Malawi gives the Parliament a core mandate in **oversight, legislation and representation**. In conducting its legislative, representative and oversight functions, the Malawi Parliament has several committees comprising of elected MPs from different political parties. These committees provide specific oversight of sector performance and are appointed to respond to, consider, inquire into, and deal with issues entrusted to them. These relate to ensuring a policymaking unit's strategic priorities and other objectives are concrete, manageable and achievable. For the water sector oversight is done through the parliamentary committee for natural resources.

## 4.2 How well is accountability for OSG provided for on paper?

Table 3 shows the dashboard of de jure assessment results which evaluate the degree to which accountability for essential water sector functions is provided for within Malawi's legal framework. This is supported by a summary data sheet in Annex 2 which provides full references to the original materials upon which the assessment is made and justification of each score.

The de jure analysis of the five aspects of overarching sector governance suggests that rules and responsibilities are generally clearly articulated in policy and law. However, the analysis observed that the rules for performance management were partial, as detailed in the following sections. The provisions on monitoring performance were observed as being partial for sector governance and stakeholder oversight and participation respectively. The same partiality was observed for corrective measures, incentives or sanctions in stakeholder oversight and participation.

**Table 3. De jure assessment of accountability provisions across key functions Malawi's Overarching Water Sector Governance. The steps of the accountability cycle are scored for each key function in accordance with the following scoring system: 0 – not present [RED], 1- weak [ORANGE], 2 – intermediate/partial [YELLOW], 3 – strong [GREEN] for each phase & sub-question/characteristic.**

<i>How well does Malawi's policy and legislative framework provide for</i>				
	<i>Rules, processes, and standards</i>	<i>Responsibilities and duties</i>	<i>Performance monitoring and review</i>	<i>Corrective measures, incentives and sanctions</i>
1. Sector governance framework	Strong	Strong	Strong	Strong
2. Anti-corruption policy and law	Strong	Strong	Strong	Strong
3. Public finance and procurement	Strong	Strong	Strong	Strong
4. Stakeholder oversight and participation	Strong	Strong	Partial	Partial
5. Performance management	Partial	Strong	Strong	Strong

### 4.2.1 Rules and responsibilities

Generally, the legislation clearly establishes the rules and responsibilities for key functions of OSG. However, the **Public Service Act 1994 accords the President overall appointing powers, which could affect the independence of appointments and decision making** from political or other undue influence. Appointing powers to any posts above Principal Secretary to a department is vested in the President, and nominations for appointments into higher offices made by the civil service commission are subject for approval by the president. This means that the President is accorded appointing powers for key offices, which can make these vulnerable to political influence.

The sector governance framework for the water sector is clearly laid out in legislation, policies, and regulations. The WRA 2013, NWP 2005 and WRR 2018 guide water resources

management, development, and service delivery. The NWP 2005 clearly outlines roles and responsibility and provides a framework for sector governance coordination, to be led by the Ministry.

The legislation to fight corruption was found to be sufficiently robust. The law assigns the ACB as the lead agency and provides tools to regulate operations, such as internal policies, Code of Conduct, Bureau Standing Orders.

#### 4.2.2 Performance monitoring and corrective measures

In considering overarching sector governance, the provisions for performance monitoring and corrective measures for **anti-corruption policy and law, public finance and procurement and performance management clearly designate appropriate monitoring and corrective measures**. The Ombudsman Act 1996 gives power to the Ombudsman to hold accountable all civil servants for proper application of their official functions and duties. In some cases, key offices have been mandated to provide public communication on the performance of key institutions, for example through the National Audit Report presented by the office of the Auditor General.

However, there are also opportunities to strengthen the performance monitoring and review of the **stakeholder oversight and participation and performance management functions**. Monitoring provisions are at times **weak**, and there is no oversight of performance monitoring for reforms **regarding opening up of civic space and allowing independent media**. There is **no performance monitoring provision relating to civil action and public interest litigation** against duty bearers.

This pattern of strengths and partiality observed in the de jure setting suggests that across the OSG sub-sector, monitoring and corrective measures against well-developed rules and responsibilities are only partially in place. This finding is supported by available insights from the literature, and recommendations, as presented in section 6 of the report.

### 4.3 How well is accountability for OSG provided for in practice?

Table 4 sets out the dashboard of results summarising the findings from the de facto review which considers how effectively accountability is executed in practice. Generally, the rules and responsibilities set out in Malawi's strong OSG framework are strongly implemented, with the only exception of performance management. However, important challenges in accountability are highlighted for the performance monitoring and review and adaptive management steps of the accountability cycle.

**Table 4. De facto assessment of accountability provisions across key functions Malawi's Overarching Water Sector Governance. The steps of the accountability cycle are scored for each key function in accordance with the following scoring system: 0 – not present [RED], 1- weak [ORANGE], 2 – intermediate/partial [YELLOW], 3 – strong [GREEN]) for each phase & sub-question/characteristic.**

*How well does Malawi's policy and legislative framework provide for*

	<i>Rules, processes, and standards</i>	<i>Responsibilities and duties</i>	<i>Performance monitoring and review</i>	<i>Corrective measures, incentives and sanctions</i>
6. Sector governance framework	<i>Strong</i>	<i>Strong</i>	<i>Partial</i>	<i>Weak</i>
7. Anti-corruption policy and law	<i>Strong</i>	<i>Strong</i>	<i>Strong</i>	<i>Strong</i>
8. Public finance and procurement	<i>Strong</i>	<i>Strong</i>	<i>Strong</i>	<i>Strong</i>
9. Stakeholder oversight and participation	<i>Strong</i>	<i>Strong</i>	<i>Partial</i>	<i>Partial</i>
10. Performance management	<i>strong</i>	<i>Strong</i>	<i>Strong</i>	<i>Partial</i>

### 4.3.1 Rules and responsibilities

The de facto findings show that rules and responsibilities functions are strongly implemented for all overarching sectoral governance, with the exception of performance management. These findings align with the de jure results.

In relation to **public finance and procurement**, the Finance Department within the MoWS is mandated to prepare and submit budgets to the Ministry of Finance. The department is guided by the Public Finance Management Act 2022. For public procurement, all Government offices are guided by the Public Procurement 2017, Disposal of Public Asset Act 2016 and Public Procurement Regulations 2020. These guide and present rules on how controlling officers within the Ministry should manage public finance and procurement.

The Malawi water sector policy acknowledges the importance of **stakeholder oversight and participation** and establishes avenues to facilitate these. Through strategies like the Malawi Development Cooperation Strategy (DCS) 2014-2018 and the Country Development Cooperation Strategy (CDCS), the Government recognises the need for key stakeholders to participate in decision making. To enforce this cooperation, a sector-wide approach uses the **Sector Working Groups (SWGs)** to help implement the Malawi Growth and Development Strategy guidelines. The SWGs are responsible for sector oversight and performance, with well-defined roles for government and development partners. However, these SWGs have failed to convene regularly.

The office of the ombudsman provides oversight and offers the public a complaints and inquiry systems to protect them from administrative injustice. This helps ensure the quality of public service delivery and provides a platform where stakeholders can hold duty bearers accountable for service delivery.

In theory, **performance management** of the ministries, departments and agencies is provided for through the establishment of the **Public Sector Reforms Management Unit (PSRMU)**. The PSRMU was established in 2006 within the Office of the President and Cabinet, however, the unit has been mostly idle until recent efforts by the Government, providing a strategic direction on improving performance review. In addition, while strong rules for performance management are present, **the powers to appoint senior positions in the Ministry and other key Government agencies remain with the President**. This means, in theory and in practice,

key Government positions can be appointed due to political influence, without consideration of proper procedure.

### 4.3.2 Performance monitoring and corrective measures

The de facto interviews found the **implementation of performance monitoring and review and/or corrective measures, and incentives, to be partial or weak** for most OSG functions except for anti-corruption, and public finance and procurement. These findings are in contrast with the de jure review, which found only stakeholder oversight and participation to be partial with regard to these steps of the accountability cycle.

The weak and partial scores are due to inefficiencies in the implementation of the **performance monitoring and corrective measures** frameworks.

1. The **SWG**s for the water sector, established to ensure performance oversight, have **consistently failed to convene and provide reports** on the performance of the governance framework. Reasons for inconsistent meetings have been attributed to lack of resources and the Government's inability to coordinate the SWGs.
2. The **Joint Water Sector Review (JWSR)**, a tool for performance reporting and monitoring, was perceived to be weak by stakeholders. Two factors were raised to demonstrate this. Firstly, the **SWG**s established to work on thematic issues for the JWSR **are inconsistent with most of them failing to provide progress reports on undertakings**. Secondly, **the JWSR has not convened annually** due to financial challenges and lack of commitment to it by the MoWS.
3. The Parliament is mandated by the Constitution to provide oversight on emerging legislative and public policy decisions. However, most parliamentary committee members **lack a clear understanding of the water sector legislation and institutional roles**. This has weakened Parliament's ability to provide corrective measures on sector specific issues and on strengthening the governance framework.  
*“Parliamentarians are not aware of provisions stated in key legislations like the Water Resources Act<sup>22</sup>. For instance, establishment of the Water Tribunal as a key committee to hear matters relating to issues” (Director, Ministry of Water and Sanitation, Lilongwe, September 2022).*
4. The Office of the Ombudsman submits annual performance assessment reports to the Speaker of the National Assembly, offering an avenue for stakeholder oversight. In addition, the Public Information Commission is mandated to facilitate access to information. However, despite this the public still faces challenges in accessing information from Government offices, as most offices appear to be **reluctant to share reports or data**.
5. The Office of the Ombudsman offers an opportunity to promote good public administration through litigation. However, the water sector lacks a platform to

handle sectoral issues. **The law provides for a Water Tribunal to deliberate of sector oversight and participation challenges, however such a committee does not yet exist.**

*“This has affected the progression of the handling of administrative injustices, ineffectiveness and inefficiencies in sector service delivery, as the Ombudsman Office does lack sector expert in some cases which slows down the handling of matters as they must engage an expert or specialist.” (Principal Research and Civic education, Lilongwe, May 2022).*

6. All Government ministries, departments and agencies are required to submit annual reports which indicate performance, plans, developments, and management of civil service, to the Secretary for Human Resources Management and Development. In terms of corrective measures, the Public Sector Reforms Management Unit assess reports and provides technical advice to institutions to improve their service delivery. However, **uptake of recommendations was observed to be slow or inexistent due to lack of political will.**

With regard to strong scores, **performance monitoring of anti-corruption** is done annually through the submissions from the ACB to the President, Minister of Justice and Constitutional Affairs, and Parliament. Currently, performance is monitored by measuring against outputs set out in the ACB’s strategic plan. Reports from each department are consolidated into annual reports. The ACB engages various institutions on anti-corruption practices through awareness campaigns to ensure the public is aware of the laws and consequences of corrupt acts.

**Public financial management** is monitored through the Auditor General. Government institutions, through their internal finance departments, generate financial reports which are submitted to be audited for financial performance assessment. For corrective measures, the office of the auditor general is obligated to point out irregularities and propose recommendations. If abuse is observed those involved are subject to fiscal criminal charges.

**Public procurement** is guided by desk instructions on public procurement. Each public institution must have an internal public procurement committee that reviews and awards contracts. The Office of Public Procurement and Disposal of Assets (PPDA) monitors compliance of public procurement across all public entities. Periodically, the PPDA issues administrative reviews and a list of bidders debarred from public procurement.

### 4.3.3 Underlying factors

The de facto study observed challenges in application of the accountability cycle and identified some underlying factors affecting the implementation of overarching sector governance functions. These are as follows:

1. **Governance institutions remain understaffed.** Despite being responsible for ensuring effective accountability within the sector most institutions lack the personnel to adequately carry out sectoral governance functions. For instance, according to

interviewees, the Anti-Corruption Bureau (ACB) has less staff than required to carry out key functions.

2. **Lack of capacity to efficiently execute responsibilities.** The Strategic Plan 2019 produced by the ACB highlights the lack of specialised training for staff in the Investigations Department and the Prosecutions, especially in ICT related financial crimes and development projects which involve huge sums of money.
3. **Limited funding** affects the implementation of OSG functions. For example, to respond to all the emerging public policy issues, committees require adequate funding to convene meetings. However, often committees face the challenge of delayed and inadequate funding. In some cases, MPs abandon the committees that have no monetary incentives, leaving these committees underrepresented and unable to perform.
4. **Political interference** has compromised the integrity of many institutions. The independence of institutions like the ACB continues to be a concern among many stakeholders. Political interference has been observed as a contributing factor which reduces the ability of the ACB to pursue cases.
5. **Lack of separation of state and party affairs** has affected the independence of Boards of Directors in sector institutions. Despite clear guidelines for Board Members appointment, this protocol is often overlooked and instead politics come into play as party loyalists are favoured.

## 5. Results: Insights from the literature

Insights have been drawn from the Malawi Water Resources Master Plan Report 2017, the Analysis of The Water, Irrigation, Sanitation and Hygiene Joint Sector Review Processes for the Department of Irrigation And Water Development In Malawi, the 12<sup>th</sup> Joint Sector Review Meeting Minutes Dec 2019 and the Report from the Auditor General 2019.

The insights generated are set out below. Overall, they indicate that responsibilities and duties among water sector agencies lack clarity, with poor coordination between responsible agencies.

### 5.1 Rules and responsibilities

<i>Accountability issue</i>	<i>Detail</i>
<b>Institutional challenges</b>	The available literature identifies that for some key functions, responsibilities and duties are present. For instance, the Malawi Water Resources Master Plan Report (2017) acknowledges that basic systems and tools to manage hydrological information, such as monitoring, training and analysis, exist. However, statutory

	<p>bodies responsible for environmental standards, pollution control, and planning for water resource provision are overlapping, weak or lacking. For example, the Malawi Water Resources Master Plan Report (2017) found no provisions for coordination among stakeholders on water planning, such as for groundwater developments.</p>
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## 5.2 Performance monitoring and corrective action

<i>Accountability issue</i>	<i>Detail</i>
<p><b>Assessment of future demand, and environmental standards, targets, and objectives</b></p>	<p>The WRA 2013 mandates the NWRA to provide for environmental standards, targets, and objectives. However, there are challenges in ensuring performance and corrective action for these functions.</p> <p>For example, the Malawi Water Resources Master Plan Report (2017) observed that the establishment of monitoring systems and training on monitoring and analysis have been progressing with the assistance of overseas development partners. However, proper monitoring is not carried out due to a lack of reference standards. The Centre of Expertise for Water’s report on Integrated Water Resource Management in Southern Malawi Enhancement for project expansion observed that there is a challenge in ensuring performance monitoring and corrective measures for assessment of future demand without any data management systems, national statistics and reliable data on water resources. The Malawi Sector Performance Report (2011) observed that the Ministry had managed to assess the surface and ground water for suitability for various uses, which is a good starting point. However, several parameters in relation to quality issues are yet to be determined.</p>
<p><b>Performance monitoring through Joint Water Sector Reviews</b></p>	<p>Joint Water Sector Reviews (JWSR) are a key mechanism for accountability monitoring and taking corrective action (see Battle, 2020; Danert &amp; Furey, 2016). In Malawi, there have been several challenges in realising the JWSR process since its inception in 2008. The ‘Analysis of The Water, Irrigation, Sanitation And Hygiene Joint Sector Review Processes For The Department Of Irrigation And Water Development In Malawi’ report published in November 2017 by BAWI indicated the following as affecting the efficiency of the JWSR:</p> <ul style="list-style-type: none"> <li>• <b>How the WASH sector is institutionalising JWSR processes:</b> there are no mechanisms and indicators for assessing the success and failure of the JWSR processes.</li> <li>• <b>Data and information generation and analysis for JWSR Processes:</b> the data that is used for the preparation of the Sector Performance Report (SPR) has been unreliable.</li> </ul>



	<ul style="list-style-type: none"> <li>• <b>The role of the line ministry and key stakeholders in the JWSR processes:</b> The role of the line Ministry is to provide leadership of the JWSR processes by providing strategic direction for the sector. However, the Ministry has faced challenges such as the mobilization of funds for the JWSR processes that has resulted in stakeholders looking at the whole process as being donor driven.</li> <li>• <b>Financing of the JWSR processes:</b> The preparations have been hampered by a lack of funding of some preparatory activities. The Joint Financing Agreement (JFA) for the Sector that has been prepared with funding from the World Bank would be a positive way of pulling resources together for use in the Water Sector Wide Approach and the JWSR processes.</li> <li>• <b>Undertakings and their impact on sector direction and pace of progress:</b> more than half of the undertakings that are agreed at the JWSR meeting are not achieved by the time the next JWSR meeting is held.</li> </ul>
<p><b>Stakeholder oversight and participation</b></p>	<p>To ensure accountability within the sector, it is important that key stakeholders participate and provide oversight in water governance. The de jure analysis in this report observed that roles and responsibilities are well defined, with Government identified on paper as the lead and CSOs and donors tasked with providing support through the JWSR . This observation was supported by the ‘Analysis of The Water, Irrigation, Sanitation And Hygiene Joint Sector Review Processes For The Department Of Irrigation And Water Development In Malawi’ report published in November 2017. The survey report assessed that all the stakeholders consulted were satisfied with the procedural structure of the JWSR in that it is inclusive of the key stakeholders.</p> <p>However, despite these roles and responsibilities to provide oversight, the 2018 report by the Centre of Expertise for Waters report on Integrated Water Resource Management in Southern Malawi Enhancement report for project expansion observed that despite some communities being empowered through education to voice their needs and concerns, several other communities are not in the same position.</p>
<p><b>Sector financing and financial management of sector institutions</b></p>	<p>In terms of public finance management, the 2019 report from the Auditor General highlighted serious weaknesses in financial and internal controls for the Ministry of Agriculture, Irrigation and Water Development. In fact, an audit of financial statements of the Ministry for the financial year ended 30th June 2019 showed weaknesses in the overall performance on both the Recurrent and</p>

	Development budget as well as the Opinion on the Financial Statements of the Ministry.
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## 6. Conclusions and Recommendations

Overall, with regard to WRM the accountability cycle was strong in theory and in practice for setting rules, processes and standards. Provisions in the legislative framework clearly establish rules related to the implementation of each function. In particular, the social and environmental impact assessment and development control function was found to be strong across all steps of the accountability cycle.

However, opportunities for stronger accountability were identified across all other steps of the accountability cycle for each function studied. The legislative framework lacks clarity in relation to responsibilities and is weak in its provisions for adaptive management. This undermines the effectiveness of key functions, such as assessment of future demand, setting of environmental standards, planning for water resources and pollution control. Pollution control is a clear example of the impact of unclear roles and responsibilities in the legislation. Several legislative documents assign the leading role of pollution control to various environmental agencies, so licencing and monitoring of pollution are compromised in practice. However, even when the provisions are clear in the legislation, implementation can be a challenge. Uncertainties around the transfer of power from the MoWS to the NWRA deeply impacted the implementation of several key functions, including water resources monitoring and groundwater protection. The NWRA has stated it is undergoing a revitalisation process under a new leadership, which will address this issue. However, the process is in its infancy and would benefit from wide support and monitoring from partners. In addition, several key functions, such as assessment of future demand, resource planning and permitting, are impacted by lack of data on water resources. Understaffed departments, lack of funding, unclear reporting flows and weak coordination result in patchy data sets.

With regards to OSG, in theory the legislative framework was strong across the majority of the accountability steps, for the majority of functions. However, both in theory and practice, challenges were highlighted regarding roles and responsibilities in performance management. These are due, firstly to Public Service Act 1994 according the President overall powers, affecting independence of appointments and decision making both in theory and in practice. Secondly, in theory the Public Sector Reforms Management Unit was established to carry out performance management, however it has been mostly idle.

In addition, the performance monitoring and adaptive management steps of the accountability cycle were key challenges across WRM and OSG. In some instances, weaknesses in the legislative framework translated into practical limitations, such as the issue of overall powers being awarded to the President. In others, despite strong provisions in the legislation, implementation was weak. For example, the legislation provides for several stakeholder participation and performance review tools, such as the JWSR, the SWGS and the Water Tribunal. However these are either not operationalised or are inconsistent in their

activities. Interviewees have identified key underlying causes being weak leadership, lack of resources and poor coordination.

These accountability weaknesses challenge the protection of Malawi's water resources, putting the country's economic development, resilience and citizens' health at risk. Robust and reliable data collection, strong monitoring and evidence-based permitting are critical for the sustainable and fair management of Malawi's water resources, both now and in the future. With the effects of the climate crisis already being experienced through increased floods, droughts and erratic rainfall, the assessment of future demand and planning for water resource provision are critical areas in need of monitoring to support decision makers. To achieve the goals set out in the Malawi 2063 Strategy, there is a strong imperative to address the effectiveness and inefficiencies in key WRM functions.

The evidence highlights significant opportunities to strengthen accountability and drive improvements across Malawi's water sector, benefitting Malawi's people, economy and environment. To seize these opportunities, the following recommendations should be considered for action by the Government and other stakeholders in the water sector to address the challenges identified in this review:

1. **The NWRA should be given the authority powers to implement crucial WRM functions**, without political interference. While the NWRA has reported this process has started, it is in its infancy and therefore requires monitoring and support from partners.
2. **The annual Joint Water Sector Review (JWSR) process needs to be strengthened as a performance reporting mechanism** under the leadership of the MoWS with the support of the water sector stakeholders (e.g. Government bodies, CSOs, development partners, private sector).  
This should include a multi-stakeholder oversight group, with government, development partners and CSOs representatives, to systematically follow up monitoring and coordination of agreed actions, as well as an agreed sector monitoring framework with KPIs.
3. **The establishment of the Water Tribunal** by the Government is essential to ensure oversight in promoting accountability and to provide system checks in managing complaints against service providers and duty bearers within the water sector.
4. **Bottom-up processes of community-driven social accountability** monitoring must be supported by CSOs to inform performance monitoring of service delivery and infrastructure projects. This evidence should be fed into the JWSR and other oversight processes by the sector regulators and the Auditor General.
5. **Policy review, legislative reform and statutory guidance provision** by the Government, are necessary to address gaps in legislation on setting environmental standards, planning for water resources and for pollution control. These include particularly overlapping functions and weak performance monitoring and review, and adaptive management measures.
6. **Recommendations of the Auditor General's report** should be systematically followed up by CSOs through the JWSR, external support conditions and NWRA benchmarking

processes, including enabling sector regulators to take adequate corrective action for non-compliance with recommendations.

7. **Improved and new mechanisms for financing the water sector**, through taxes, tariffs and transfers among other financial tools, need to be identified and implemented by the Government with the support of wider stakeholders in the water sector.
8. **Better public access to information is necessary to enable citizens of Malawi to have a robust understanding of water laws and procedures**, with the leadership of the MoWS and support of wider stakeholders in the water sector. For example, applying for and processing water use permits is not well-understood, well communicated, or accessible, especially to less wealthy individuals or communities or new applicants. This would allow a service seeker to hold institutions, organizations, and people to account effectively.

Finally, the methodology applied in this study proved to be an effective tool to assess accountability in detail and to identify bottlenecks, gaps and actions to strengthen water governance. In the future, it is recommended that this methodology is expanded to include rural and urban water supply and sanitation, flood and drought disaster management and the cross-cutting governance of the water sector.

## References

- Bawi Consultants. (2017). *Analysis of the water, irrigation, sanitation and hygiene joint sector review processes for the department of irrigation and water development in Malawi* (Issue November).
- Battle, C. (2020). *Strengthening Joint Sector Reviews in the water, sanitation and hygiene sector Learning synthesis* (Issue February).
- Centre of Expertise for Waters. (2018). "Integrated Water Resource Management in Southern Malawi". *Enhancement report for project expansion*.
- Danert, K., & Furey, S. (2016). *Joint Sector Reviews for water, sanitation and hygiene (WASH)*. March, 8. <https://doi.org/10.13140/RG.2.1.4550.9365>
- Ernstorfer and Stockmayer (2009). *Capacity Development for Good Governance: What Is it, How Does it Work and Will it Make a Difference?* Baden-baden.
- Government of Malawi (2019). Report of the Auditor General On the Accounts of the Government of the Republic of Malawi (Year Ended 30<sup>th</sup> June 2019)
- Government of Malawi (2019). Ministry of Agriculture, Irrigation and Water Development. *The 12th Joint Sector Review Meeting Minutes* (4th To 5th December 2019 Crossroads Hotel Lilongwe)
- Government of Malawi (2019). National Meteorological Policy.
- Government of Malawi (2019). *Report of the Auditor General On the Accounts of the Government of the Republic of Malawi for The Year Ended 30th June 2019*
- Government of Malawi (2018). Public Audit Act.
- Government of Malawi (2018). Malawi Public Service Management Policy 2018 to 2022.
- Government of Malawi (2017). Environmental Management Act.
- Government of Malawi (2017). National Water Resources Master Plan. Vol IX. Master plan: general
- Government of Malawi (2017). Public Procurement and Disposal of Assets Act.
- Government of Malawi (2016). Communications Act.
- Government of Malawi (2013). Water Resources Act.
- Government of Malawi (2008). National Sanitation Policy.
- Government of Malawi (2005). National Water Policy.
- Government of Malawi (2004). National Environmental Policy.
- Government of Malawi (2004). Corrupt Practices Act.
- Government of Malawi (2004). National Environmental Policy.
- Government of Malawi (2003). Public Finance Management Act.
- Government of Malawi (1996). Ombudsman Act.
- Government of Malawi (1995). Water Works Act.
- Government of Malawi (1994). Public Service Act.
- Hepworth, N. D., Brown, B. D. and Brewer, T. (2020) *Accountability and advocacy interventions in the water sector: a review of global evidence. Part 1. Overview and Summary Results*. Edinburgh, UK.

Water sector accountability review: Malawi

Available at: [www.waterwitness.org](http://www.waterwitness.org).

SIWI, WIN, & UNDP. (2013). *User's Guide on assessing water governance*.

<https://siwi.org/publications/users-guide-on-assessing-water-governance/>

UNDP (2006). *Human Development Report, Beyond Scarcity: Power, poverty and the global water crisis*, United Nations Development Programme. New York.