2020

Unemployment in the Department of Employment and Labour

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NATIONAL TREASURY

Executive Summary

South Africa's narrow definition of the unemployment in the second quarter of 2020 was 23.3 per cent[1]. This figure includes the impact of COVID-19 on the labour market in an economy which has suffered millions of job losses since the beginning of the pandemic. It is therefore surprising against the background of high unemployment in the country that the Department of Employment and Labour (DEL), the custodian of facilitating job creation in the labour market, has a high number of vacant and funded posts. Over the past six years, spending on Compensation of Employees (CoE) remains the largest and most consistent area of underspending. This spending review examines whether savings can be found in the DELs' CoE budget.

DEL delivers its services through its nine regional offices, 126 labour centres, 42 satellite offices and 492 visiting points. By the end March 2020, the department had a total of 341 vacant posts. As personnel is shared between the Department, UIF and Compensation Fund, we estimate the vacancies within the department by netting out positions allocated to the work of the funds. Therefore, this estimate is based on the assumption that all posts where 60 per cent or more time is spent doing DEL work is allocated to the relevant programme within DEL in line the PERSAL data provided by department. Between 2017/18 to 2019/20, underspending on CoE averaged R135.7 million i.e. 10.6 per cent of the adjusted CoE budget or R157.7 million or 12.1 per cent of the original CoE budget. The variance in spending of 2.5 per cent between the original and adjusted budgets is due to shifting of funds away from CoE to pay leave gratuities and surrendering of funds during the adjusted budget process. Over the three years the department has shifted on average R13.6 million per year and surrendered R5.3 million to the fiscus and still underspent on average by R135.7 million. Programme 2, which is responsible for inspection and enforcement of all employment laws, has 178 vacant funded posts of which 167 are labour inspector posts. Programme 1: Administration has 99 vacant funded support function posts, the second highest number of vacant posts in the department. It is rather surprising that the department is unable to fill support function posts given the high levels of unemployment especially amongst young graduates in the country.

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[1] '*Quarterly Labour Force Survey (QLFS) – Q2:2020*', 29 September 2020, retrieved from www.statssa.gov.za

On average, it takes *Programme 2: Inspection and Enforcement Services* almost two years to fill a post compared to 13.6 months taken by *Programme 3: Public Employment Services*. *Programme 1: Administration* takes 14.5 months to fill a vacant support function post. Furthermore, it takes the department 23 months to fill posts on salary level 3; entry-level posts to the public service. Given South Africa's graduate unemployment problem, it is concerning that it takes the department a long time to fill administrative posts.

One of the challenges that the department faces is the high turnover of labour inspectors. Labour inspectors are highly sought-after professionals in both the public and private sectors. Combined, with the high number of vacant positions in Programme 2 and the average length of time it takes to fill these positions, suggests that the Department is struggling to find and retain these labour inspectors. According to the department, the high turnover of labour inspectors is due to higher salaries offered by the private sector.

In contrast, the data suggests that the Department is filling vacant posts in Programme 1 albeit at a slower rate. This finding needs further interrogation – could it be that the Department has chosen not to fill these vacancies?

Consistent underspending does create space for budget reductions but also creates space for options to upgrade the salaries of critical inspector posts by abolishing and reconfiguring selected inspector posts; or abolishing all vacant posts in Programme 2 and creating inspector posts at more competitive salary levels. Another option would be to abolish the 35 posts that have been vacant for more than three years across Programmes 1, 2 and 4 valued at R11.6 million and reconfigure inspector posts at more competitive salary levels. The department also has the option of restructuring all vacant posts and creating posts to capacitate the department to deliver inspection; work seeker and employer services posts.

To ensure workers' rights are protected and employment is facilitated it will not be prudent to reduce the compensation budget of this department given the substantial CoE reductions in 2020/21 and over the 2021 medium term in order to contain the wage bill. Adequate capacity is crucial to the enforcement of the decent work agenda and enhancing the abilities of work seekers, especially youth, to gain employment. It is recommended that the department revisits its vacancies and reallocates vacant posts to ensure that Programmes 2 and 3 are well capacitated to make an impactful contribution in protecting workers and reducing unemployment.

Summary

Introduction

The Department of Employment and Labour (DEL), the custodian of facilitating job creation in the labour market has a funded establishment of 3 069 posts of which 341 are vacant posts in this department. The DEL's work is labour-intensive, it needs employees to carry out inspections and match employees to employers. However, over the past six years' Compensation of Employees has remained the largest and most consistent area of underspending. This raises important questions about why is the DEL experiencing high vacancy rates? Are the salaries for specialist positions competitive with the rest of the labour market?

Given this consistent underspending, this spending review asks whether savings can be found in the DEL's CoE budget by reducing this baseline and abolishing a significant number of vacant posts without compromising the level of service delivery?

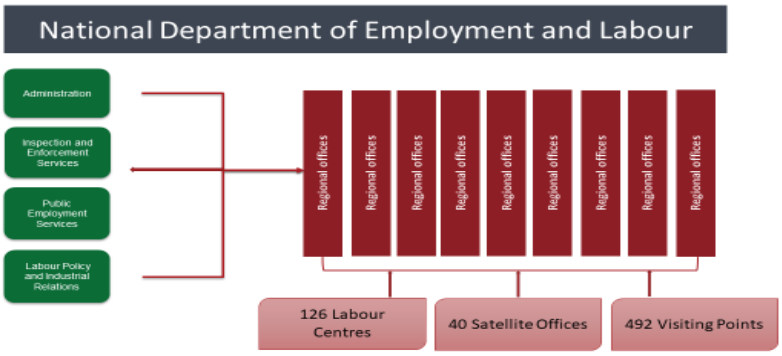
Institutional Context

The DEL plays a significant role in reducing unemployment, poverty and inequality by promoting the objectives of decent work for all. The department gets its legislative mandate from the South African Constitution, specifically sections 9, 10, 18, 23, 24, 27, 28 and 34 of the Bill of Rights. This mandate is implemented through various pieces of legislation which regulates the labour market, promotes equality and decent work for all. This mandate is delivered mainly through two programmes in the department: *Programme 2: Inspection and Enforcement Services (IES)* and *Programme 4: Labour Policy and Industrial Relations (LP&IR).* The department's public entity, the Commission for Conciliation, Mediation and Arbitration (CCMA) plays a major role in resolving labour disputes and maintaining labour peace.

Although, the mandate of *Programme 3: Public Employment Services* (PES) is not covered in the Bill of Rights, it stems from the National Development Plan. The PES programme addresses unemployment by registering work seekers and job opportunities, conducting competency assessments, and providing work seekers with CV's and interview skills and referring them to skills programmes.

The DEL is a national department that delivers its services through nine regional offices, 126 labour centres, 42 satellite offices and 492 visiting points. These satellite offices are located in either Thusong Centres or rented office space while visiting points are housed in municipal offices (see Figure 3).

Figure 1: Institutional structure of DEL



Source: Own work

Vacancies by Programme and Type

The department has a total of 341 vacant funded posts against a total establishment of 3 069. This estimate is based on the assumption that all posts where 60 per cent or more time is spent doing DEL work is allocated to the relevant programme within the DEL in line with the PERSAL data provided by the department. Of these vacant posts, 222 are service delivery posts and 119 are support function posts.

Programme 1 has 99 support function posts, the second highest number of vacant posts. Programme 2: IES has a total of 178 posts of which 167 are service delivery posts, most service delivery posts in the department. The programme with the least number of vacant posts is Programme 4 with 20 service delivery and 3 support function posts followed by Programme 3 has 41 vacant posts, of which 35 are service delivery and 6 support function posts.

Programme 2 takes the longest time to fill a vacant post, approximately 20.8 months, followed by Programme 4 with 19.5 months. Programmes 1 and 3 take 14.6 months to fill a vacant post, the least amount of time compared to the other programmes. The length of time taken to fill a post by salary level is the longest for entry level three posts, averaging 25 months, followed by 24 months for a salary level 12 post. The least amount of time taken to fill a post is at salary level five, with 11 months to fill. This analysis highlights the following issues: (See figure 2)

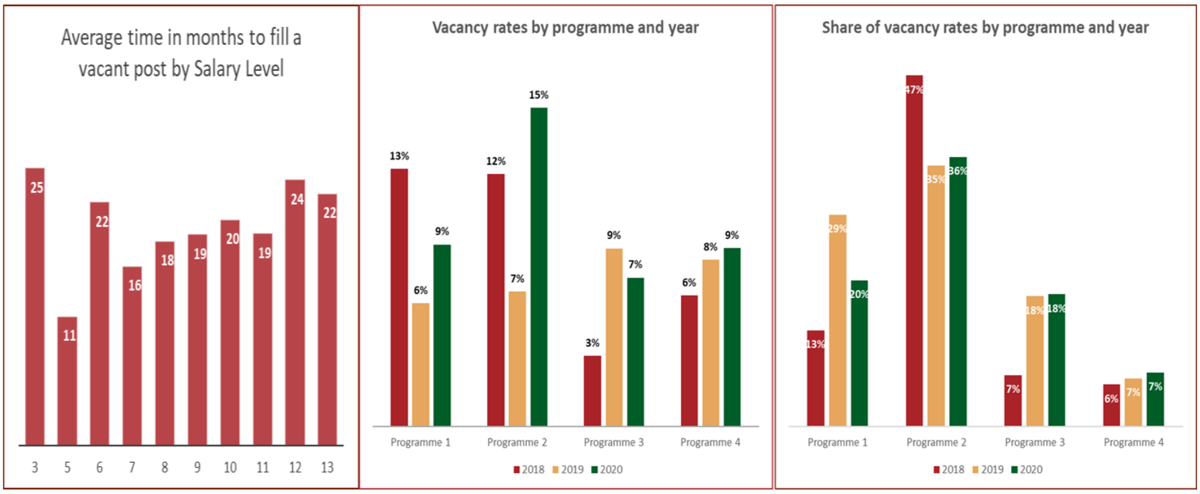
- It appears that the Department finds it easier to fill a salary level five post compared to a salary level three, 12 and 13 post.
- It is also evident from the graph that it is quicker to fill an entry level post to each salary band i.e. Salary level seven to eight, supervisory level; Salary level nine to 10, junior management level; and Salary level 11 to 12; middle management level.
- It takes on average 18.0 months to fill a salary level seven, nine and 11 post compared to on average 20.7 months to fill a salary level eight, 10 and 12 post.

- It takes on average 19 months to fill a level 9 and 11 post, management level.

In comparison, Programme 1's vacancy rate in 2017/18 was the highest at 13 per cent, followed by Programme 3 with nine per cent in 2018/19. Programme 2 had the highest vacancy rate in 2019/20 at 15 per cent. The lowest vacancy rate in 2017/18 was three per cent by Programme 3, followed by six per cent by Programme 1 in 2018/19 and seven per cent by Programme 3 in 2019/20. (See Figure 2)

Programme 2 had the largest share of vacancies across all three years with 47 per cent in 2017/18, 35 per cent in 2018/19 and 36 per cent in 2019/20. While Programme 4 had the lowest share of total vacancies across the three years with six per cent in 2017/18 and seven per cent in 2018/19 and 2019/20. (see Figure 2). The Public sector national standard for average vacancy rate is 10 per cent.[2] The DEL's vacancy rate at the end of March 2020 averaged 9.5 per cent.

Figure 2: Length of vacancies, vacancy rates and share of vacancies



Source: Own work

Expenditure and Performance

On average, compensation of employees accounts for 39.6 per cent of the total adjusted allocation to the department with an allocation of R1.2 billion in 2017/18, R1.3 billion in 2018/19 and R1.4 billion in 2019/20. Between 2017/18 to 2019/20, underspending on CoE averaged R135.7 million, that is, 10.6 per cent of the adjusted CoE budget or R157.7 million or 12.1 per cent of the original CoE budget. The variance in underspending of 2.5 per cent between the original and adjusted budgets is because funds were taken away from CoE and funds were also given back to the fiscus during the adjusted budget process.

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2 '*DPSA Strategy to Reduce the Recruitment Period and Vacancy Rate in the Public Service',* retrieved from http://www.dpsa.gov.za/dpsa2g/documents/ep/2015/14_1_1_p_08_06_2015.pdf

On average over the three years, Programme 1 spent 93 percent of its adjusted compensation allocation; Programme 2 - 90 per cent; Programme 4 - 91 per cent, with spending by Programme 3 the lowest on average at 82 per cent. The underspending by R48.2 million by Programme 2 is the highest, followed by Programme 1 with R30.9 million, Programme 3 with R16.9 million and Programme 4 with R14.5 million.

Despite the 341 vacant posts and the average of 18.1 months to fill vacant posts, the department exceeded its set performance targets. In other words, there appears to be no relationship between the performance of the department and the vacant posts. Such a finding raises questions about whether the Department is:

- purposively setting low targets that can be achieved and exceeded, or
- picking easy ways to achieve indicator targets (e.g. number of work seekers registered using job fairs to achieve this).

Overall, the DEL has a vacancy rate of 9.5 per cent compared to the public sector average standard of 10 per cent. The departments audited performance information shows that the 341 vacancies have not negatively impacted performance in practice[3]. *Programme 2: IES* and *Programme 3: PES* exceeded the target for two indicators across two and three years respectively. However, in those years, where the programme exceeded its targets, there is no indication of capacity issues.

Currently, the DEL has 1 labour inspector for every 6 000 places of employment and 1 inspector per 10 400 workers, excluding the informal sector. International Labour Organisation (ILO) benchmarks for inspectors is one inspector per 20 000 workers in transition economies; and one inspector per 40 000 workers in less developed countries[4]. Due to the lack of data of inspector to informal sector workers or employers, an assessment against the ILO benchmark cannot be made.

Exceeding targets could be a strong indication of the department is setting targets that it can achieve with its current capacity. Despite its high levels of vacancies, departmental performance seems largely unaffected. This begs questions around how the targets are set and whether indicators chosen are appropriate and useful measures of the Department's progress on delivering on its mandates. Despite its high levels of vacancies, departmental performance seems largely unaffected. This begs questions around how the targets are set and whether indicators chosen are appropriate and useful measures of the Department's progress on delivering on its mandates.

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[3] Department of Employment and Labour Annual Reports 2017/18, 2018/19 and 2019/20

[4] '*ILO calls for strengthening labour inspection worldwide*', Press release, 16 November 2006, retrieved from https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_077633/lang--en/index.htm

Conclusion

The analysis reveals that vacancies appear to have not impacted performance. Further investigation is required to ascertain whether targets are set to meet available capacity. However, from a public finance perspective, the consistent underspending against budget is an opportunity cost for the fiscus. As the country's fiscus borrows money to ensure that government departments are adequately funded, the cost of interest payments rises. Therefore, money tied up in funding vacancies instead of workers comes at a high cost.

To ensure workers' rights are protected and employment is facilitated, it will not be prudent to cut the compensation budget of this department given the already substantial CoE reductions implemented in the 2020/21 and over the 2021 medium term to contain the public sector wage bill. That said, adequate capacity is crucial to the enforcement of the decent work agenda and enhancing the abilities of work seekers, especially youth, to gain employment. It is recommended that the department reviews its vacancies and develop an approach that ensures that Programmes 2 and 3 are well capacitated to make an impactful contribution in protecting workers and reducing unemployment. The department should be given a year to restructure these vacant posts in order to retain labour inspectors and adequately capacitate the provision of work seeker and employer services by Programme 3.

CONTENTS

1. Introduction

The narrow definition of the unemployment during the second quarter of 2020 is 23.3 per cent.[5] However, the Department of Employment and Labour (DEL), the custodian of facilitating job creation in the labour market has a funded establishment of 3 069 posts of which 341 are vacant posts in this department. The DEL's work is labour-intensive, it needs employees to carry out inspections and match employees to employers. However, over the past six years' compensation of employees has remained the largest and most consistent area of underspending. This raises important questions about why is the DEL is experiencing high vacancy rates? Are the salaries for specialist positions competitive with the rest of the labour market?

Given this consistent underspending can savings be found in the DEL's CoE budget by reducing this baseline and abolishing a significant number of vacant posts without compromising the level of service delivery?

2. Policy and Institutional Information

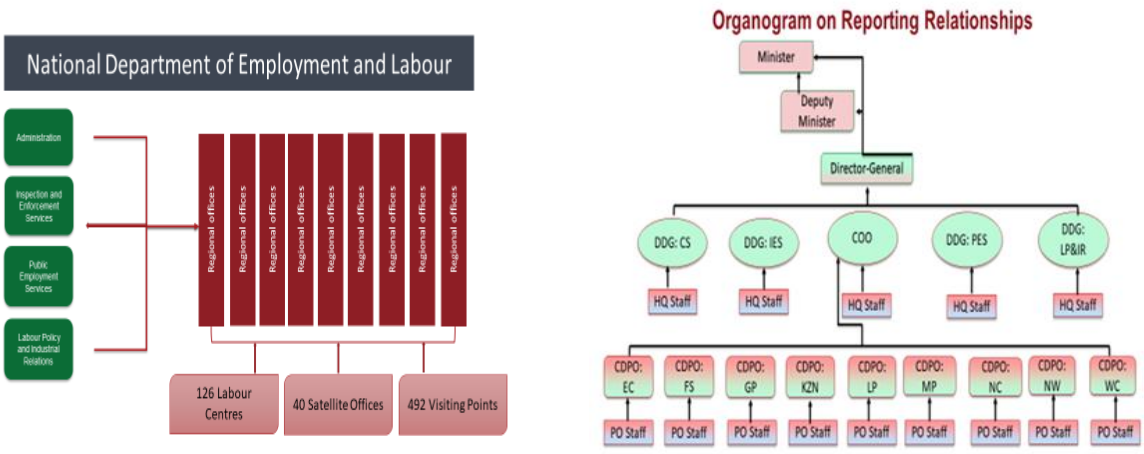
2.1 Institutional Structure

The DEL is a national department that delivers its services through nine regional offices, 126 labour centres, 42 satellite offices and 492 visiting points. The department has a shared service model with the Unemployment Insurance Fund and the Compensation Fund at these different points of service delivery i.e. one employee can spend a percentage of their time (percentage split) doing, DEL, UIF and Compensation Fund work.

For this analysis, we have assumed that posts where 60 per cent or more time is spent doing DEL work is allocated to the relevant programme in the DEL in line with the PERSAL data provided by DEL. The percentage time spent is used to allocate cost to relevant cost centres. These satellite offices are located in either Thusong Centres or rented office space while visiting points are housed in municipal offices, that have agreed to the department using its offices to deliver its services (see Figure 3).

[5] 'Quarterly Labour Force Survey (QLFS) – Q2:2020', 29 September, retrieved from www.statssa.gov.za

Figure 3: Institutional structure of the DEL



Source: Own work

2.2 Legal Mandates

The DEL derives its legislative mandate from the Constitution, specifically Chapter 2, sections 9, 10, 18, 23, 24, 27, 28 and 34 of the Bill of Rights. This is given effect to through several acts that regulate the labour market and policies and programmes developed in consultation with social partners. This mandate is delivered through the two programmes in the department: Inspection and Enforcement Services (IES) and Labour Policy and Industrial Relations (LP&IR). Although, the Public Employment Services programme is not covered in the Bill of Rights, it is contained in the National Development Plan. The Department has established Schedule 3A public entities to help it deliver on its mandate: The Unemployment Insurance Fund (UIF); Compensation Fund; the Commission for Conciliation Mediation and Arbitration (CCMA); the National Economic Development and Labour Council (NEDLAC) and Productivity South Africa.

Programme 1: Administration provides administrative support to the Department, UIF and Compensation Fund. Agency services are provided to the UIF and Compensation Fund on a cost recovery basis.

Programme 2: Inspection and Enforcement Services is responsible for the inspection and enforcement of all labour legislation and regulations including the Labour Relations Act (1995), the Basic Conditions of Employment Act (1997), the Employment Equity Act (1998), the National Minimum Wage Act (2018), the Occupational Health and Safety Act (1993), and the Employment Services Act (2014).

Programme 3: Public Employment Services gives effect to the Employment Services Act (2014) by providing comprehensive and integrated free public employment services; coordinating the activities of public sector agencies whose activities impact on the provision of employment services; encouraging partnerships, including the provision of employment services in order to promote employment; establishing schemes and other measures to promote employment; and providing a regulatory framework for the operation of private employment agencies. The Unemployment Insurance Fund and Compensation Fund are closely associated with this programme and provides social safety nets to protect vulnerable workers.

Programme 4: Labour Policy and Industrial Relations formulates sound and responsive legislation and regulations to achieve labour market flexibility for the competitiveness of enterprises, while balancing the need to promote decent employment. This programme's mandate is derived from the Constitution and further spelt out in the Labour Relations Act (1995), the Basic Conditions of Employment Act (1997), the Employment Equity Act (1998); and the National Minimum Wage Act (2018). All these Acts seek to improve economic efficiency and productivity; promote equity and eliminate unfair discrimination in the workplace. The CCMA mediates, conciliates and arbitrates dispute resolution whilst NEDLAC is tasked with maintaining social dialogue amongst all stakeholders. Figure 4 illustrates how responsibilities for the mandates are distributed between the DEL and its public entities.

Figure 4: DEL's mandates

Source: Own work

2.3 Vacancies by Programme and Type

Whereas the majority of vacancies are in service delivery functions, it is worth noting that the Department also has a considerable number of vacancies in administrative or support functions. This section analyses the vacancies by programme to determine the vacancy rates, and share of total vacancies by programme and by position type. The Public Sector average national standard vacancy rate is 10 per cent. Overall, by the end of March the DEL had a 9.5 per cent vacancy rate.

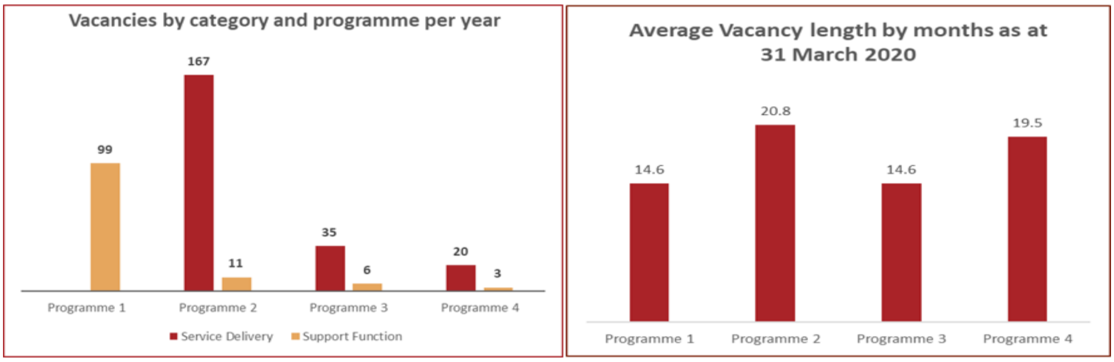
Programme 1: Administration provides strategic leadership, management, and support services to the department. This programme has 99 vacant posts which are mainly in the provincial offices and labour centres. The vacancy rate in Programme 1 has fluctuated over the past three years from a high of 13 per cent in 2017/18, decreasing to six per cent in 2018/19 and increasing to nine per cent in 2019/20. Programme 1's share of total vacancies was at its highest in 2018/19 at 29 per cent. This decreased to 20 per cent in 2019/20. On average, it takes about 14.6 months to recruit and fill a vacancy in this programme. (See Figures 3 & 4)

The bulk of the vacant posts in the department is in *Programme 2: Inspection and Enforcement Services (IES)*, with 167 vacant service delivery posts and 11 support function posts. The vacancy rate in this programme has fluctuated over the past three years and was at its lowest at seven per cent in 2018/19 and its highest in 2019/20 at 15 per cent. This programme's share of total vacancies peaked in 2017/18 at 47 per cent and has reduced over the past two years, stabilising at around 35 per cent. This programme struggles to fill vacancies, taking on average 20 months to recruit and fill a position – the longest time amongst all programmes. (See Figures 3 & 4)

Programme 3: Public Employment Services' (PES) vacancy rate grew from three per cent in 2017/18 to nine per cent in 2018/19 and then declined to seven per cent in 2019/20. The rapid growth in 2018/19 is driven by the creation of 83 new posts to deliver on the obligations set out in the Employment Services Act (2014). Expenditure on Compensation of Employees was partly funded by changing the ratio of time spent between the PES and UIF/Compensation Fund at labour centres. As the demand for personnel from the two Funds increased (as a result of an increased demand for services), the proportion of time allocated to the PES programme decreased. This programme has 35 vacant service delivery posts and 6 support function posts. Programme 3's share of total vacancies has grown from seven per cent in 2017/18 stabilising at 18 per cent over the last two years. This programme takes on average 14.6 months to recruit and fill a post. (See Figure 3 & 4)

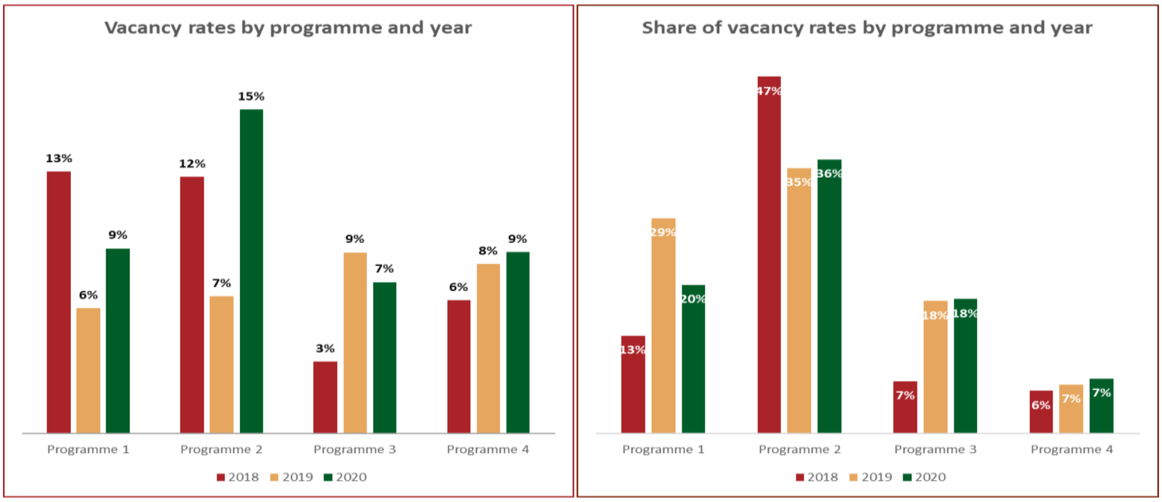
Programme 4: Labour Policy and Industrial Relations (LP&IR) has 20 vacant service delivery posts and three support function posts. The vacancy rate for this programme grows from six per cent in 2017/18 to nine per cent in 2019/20. The bulk of these posts are at labour centres and provincial offices, with three vacant national minimum wage posts at head office. This programme's share of total vacancies has grown from six per cent in 2017/18 to seven per cent over the last two years. This programme takes 19.5 months to recruit and fill a post, the second longest time amongst the four programmes. (See Figure 3 & 4)

Figure 5: Vacancies and length of vacancies by programme and category



Source: Own calculations

Figure 4: Vacancy rates and share of vacancies by programme



Source: Own calculations

3. Programme Chain of Delivery

3.1 Logframe (See point 9(2) for Table 1: Logframe)

The DEL's activities contribute to three main outcomes decent work for all, a transformed and stable labour market and decreased unemployment levels. Collectively, these outcomes contribute to a labour market that is conducive to employment creation, economic growth and decent work. It contributes to these intended outcomes and impacts through the four programmes in the departmental. Each programme produces a set of outputs that combine into specific outcomes as illustrated in Table 1.

Programme 1: Administration provides strategic leadership, management and support services to the department. The main output is a functional, efficient, and effective department delivered through the provision and management of human resources, departmental finances, the procurement of goods and services for the department as well as the provision and maintenance of IT systems.

Programme 2: Inspection and Enforcement Services (IES) is mandated by Section 24 of the Constitution of South Africa to ensure that 'everyone has the right—(a) to an environment that is not harmful to their health or wellbeing'. Labour inspectors play an important role in ensuring that labour law is applied equally to all employers and workers. Labour inspections can play a role in enhancing productivity and economic development by preventing occupational accidents and illnesses, abuse of workers and labour disputes. IES delivers on the decent work agenda by regulating non-employment and employment conditions. The proper application of labour legislation depends on an effective labour inspectorate.

The main output for this programme is the conduct of inspections to enforce compliance with labour laws, and serve non-compliant employers with a non-compliance notice with the relevant employment law. If the employer does not correct the non-compliance, then these non-compliant employers are prosecuted. Key activities of this programme include inspections, training of inspectors, amendments to the Occupational Health and Safety Act as well as advocacy sessions on employment laws.

Employment creation is another key priority of the Decent Work agenda. *Programme 3: Public Employment Services* provides assistance to companies and workers to adjust to changing labour market conditions and regulates private employment agencies. The employer services function in collaboration with the Department of Home Affairs facilitates the employment of foreign nationals where such skills do not exist in South Africa and regulates migrant or scarce skills employment, oversees placements, responds to companies in distress, provides a social plan and regulates private employment agencies.

The Work Seeker Services function registers work seekers, retrenched workers as well as work, learning, training and income generating opportunities on the Employment Services of South Africa system (ESSA). The function also provides employment counselling to registered work seekers; matches work seekers to identified job opportunities and prepares work seekers for employment opportunities. The *Public Employment Services Programme* facilitates the transfer of subsidies to national councils and workshops for the blind to promote the employment of people with disabilities.

The *Labour Policy and Industrial Relations Programme* develops legislation for the effective functioning of the labour market. Sections 9, 10, 18, 23, 28 and 24 of Chapter 2 of the

Constitution of South Africa mandates this programme to promote equality and protect workers from unfair discrimination through the implementation of the Employment Equity Act. The Labour Relations Act promotes freedom of association, sound labour relations, labour standards, fundamental rights at work, social justice, peace in labour relations, and democratic processes in the workplace. It regulates relations between employers and workers and governs issues such as the right to join trade unions and employer organisations, and the right to strike and lock out.

4. Performance Analysis

4.1 Indicator analysis (See point 9(3) Table 2: Key performance indicators in the DEL)

Given the high number of service delivery vacancies, it could be argued that the department will not meet its set indicator targets. However, the department's audited performance information shows that the 341 vacancies have not negatively impacted performance in practice. This could be a strong indication of the department setting targets that it can achieve with its current capacity. Despite its high levels of vacancies, departmental performance seems largely unaffected. This begs questions around how the targets are set and whether indicators chosen are appropriate and useful measures of the Department's progress on delivering on its mandates. Therefore, a key point to consider is whether the targets set by the department is appropriate or not given the reports of exploitation of vulnerable workers and the increased demand for compliance with all employment laws. In this section I will focus on the performance of the core programmes of the department.

Programme 2: Inspection and Enforcement Services did not meet its set targets in 2017/18 for two key indicators: number of employers inspected for compliance with employment laws and percentage of reported incidents finalised within 90 days. Programme 2 conducted 2 062 less inspections than the target of 217 008. They only managed to finalise 35 per cent of incidents within 90 days against a target of 60 per cent. In 2018/19 and 2019/20, the programme exceeded its target on average by 3 743 inspections.

Indicators 2 and 3 were exceeded in all three financial years. Whereas in those years, where the programme exceeded its targets, there might not be any indication of capacity issues. However, another possible explanation is that the Department sets a low target that they are more likely to achieve with the available capacity.

Currently, the DEL has 1 labour inspector for every 6 000 places of employment excluding the informal sector and 1 inspector per 10 400 workers, this excludes the informal sector.[6] International Labour Organisation (ILO) benchmarks for inspectors is one inspector per 10 000

[6] Deputy Director-General: Inspection and Enforcement Services, 15 September 2020, Department of Employment and Labour

workers in industrial market economies; one inspector per 20 000 workers in transition economies; and one inspector per 40 000 workers in less developed countries.[7] Due to lack of data of inspector per informal sector workers ore employers, an assessment against the ILO benchmark cannot be made.

The set targets for *Programme 3: Public Employment Services* was exceeded for all four indicators in all 3 years. In the instances, where targets have been exceeded it is mainly due to advocacy campaigns, job fairs and group counselling provided to work seekers. However, these outputs appear relatively easy to achieve and appear less labour intensive. Is this what is needed, or should the department be doing more individual counselling and assessments?

Programme 4: Labour Relations and Industrial Policy does not have any indicators in the 2019 and 2020 Estimates of National Expenditure (ENE) and only one indicator in prior years ENE. This programme has the least amount of indicators in the DEL APP. Possibly due to key mandates being delivered by its two public entities, the CCMA and NEDLAC. Performance against the following two indicators, percentage of collective agreements extended within 90 calendar days of receipt and percentage of labour organisation applications for registration approved or refused within 90 days of receipt each year were mainly achieved over the three years.

4.2 Vacancies by programme and salary level

The length of time taken to fill a post by salary level grows from 11 months for a salary level five post to 24 months for a salary level 12 post. It takes about 25 months, the longest time, to fill a salary level three post. Just over two years to fill an entry level post in the public service seems rather long. However, the public sector standard is a median period of six months to fill a funded vacancy[8]. The department takes just over four times this standard to fill a level three post. This analysis highlights several issues: (See Figure 6)

- It appears that the Department finds it easier to fill a salary level five post compared to a salary level three, 12 and 13 post.
- It is also evident from the graph that it is quicker to fill an entry post to each salary band i.e. salary level seven to eight, supervisory level; salary level nine to 10, junior management level; and salary level 11 to 12; middle management level.

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[7] '*ILO calls for strengthening labour inspection worldwide*', Press release, 16 November 2006, retrieved from https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_077633/lang--en/index.htm

[8] *DPSA Strategy to Reduce the Recruitment Period and Vacancy Rate in the Public Service',* retrieved from http://www.dpsa.gov.za/dpsa2g/documents/ep/2015/14_1_1_p_08_06_2015.pdf

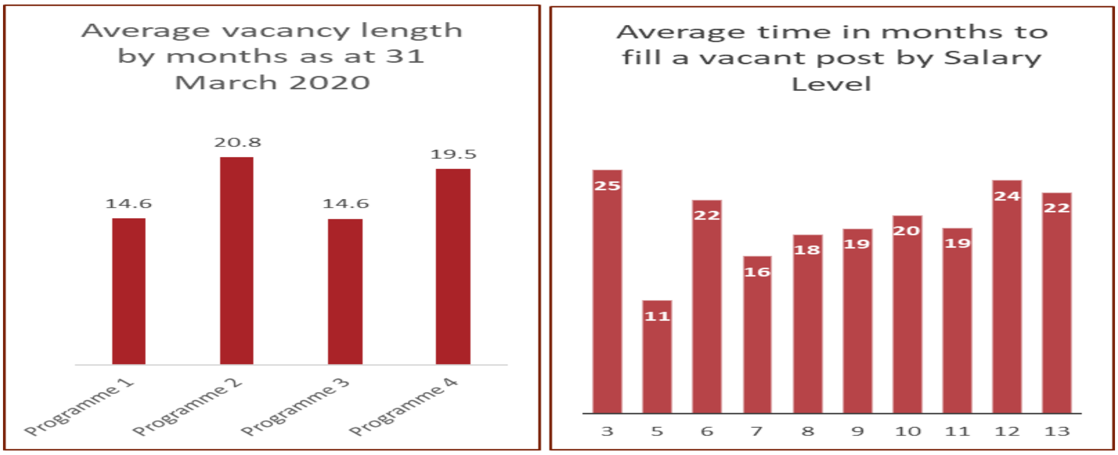
- It takes on average 18 months to fill a level seven, nine and 11 post compared to on average 20.7 months to fill a level eight, 10 and 12 post.

Programme 2: IES takes the most time - almost 2 years to fill vacant posts. In contrast, the *Public Employment Services and Administration programmes* take on average 14.6 months (just over a year) to fill a vacant post. Of the four budget programmes, Programmes 1 and 3 take the shortest time to fill vacancies. The *Labour Policy and Industrial Relations* (LP&IR) programme takes 19.5 months, the second longest time to fill vacancies after *Programme 2: Inspection and Enforcement Services*. (See Figure 6)

Despite the 341 vacant posts and the average of 18.1 months to fill vacant positions, the department exceeded its performance targets. This means that there is no relationship between the performance of the department and the vacant posts. Such a finding raises questions about whether the Department is:

- purposively setting low targets that can be achieved and exceeded.
- picking easy ways to achieve indicator targets (e.g. number of work seekers registered – using job fairs and therefore exceeding target).

Figure 6: Average length of time to fill vacancies



Source: own work

5. Expenditure Observations

5.1 Spending on Compensation of Employees

The department is funded through annual fiscal appropriations and received a total adjusted allocation of R3.1 billion in 2017/18; R3.3 billion in 2018/19 and R3.4 billion in 2019/20. Compensation of employees across the three years' accounts for on average 39.6 per cent of the total adjusted allocation to the department of R1.21 billion in 2017/18, R1.30 billion in 2018/19 and R1.40 billion in 2019/20. From 2017/18 to 2019/20, underspending on CoE averaged R135.7 million i.e. 10.6 per cent of the adjusted CoE budget or R157.7 million or 12.1

per cent of the original CoE budget. The variance in underspending of 2.5 per cent between the original and adjusted budgets is because funds were taken away from CoE to pay leave gratuities for exit or severance packages and returning funds to the fiscus during the adjusted budget process. Over the three years the department has moved on average R13.6 million per year and returned R5.3 million per year to the fiscus. In the 2018 adjusted budget the department moved R10.2 million from CoE across programmes to increase the transfer to NEDLAC for the Presidential Job Summit. Given these movement of funds out of COE, the department still managed to underspend on average by R135 million per year due to vacant posts.

On average over the three years, Programme 1 spent 93 percent of its adjusted compensation allocation; Programme 2 spent 90 per cent; and Programme 4 spent 91 per cent. Spending by Programme 3 is the lowest on average at 82 per cent. (See figure 7)

5.2 Underspending by programme, level and type of position

Service delivery posts constitute 65.1 per cent of total vacant posts in the department, these are positions which the department needs to deliver on its legislative mandate. The total cost of vacant posts in the department is R110.6 million of which service delivery posts cost R74.4 million or 67.3 per cent of total cost.

Programme 2: Inspection and Enforcement Services has the highest number of vacant posts at 178 with a rand value of R48.2 million. *Programme 1: Administration* has 99 vacant funded posts valued at R30.9 million, followed by *Programme 3: Public Employment Services* with a total of 41 vacant funded posts valued at R16.9 million whilst *Programme 4: Labour Policy and Industrial Relations* has 23 vacant funded posts valued at R14.5 million. Funding vacancies carries a lost opportunity cost for government because national government has to fund a portion of the fiscal framework through borrowing or debt.

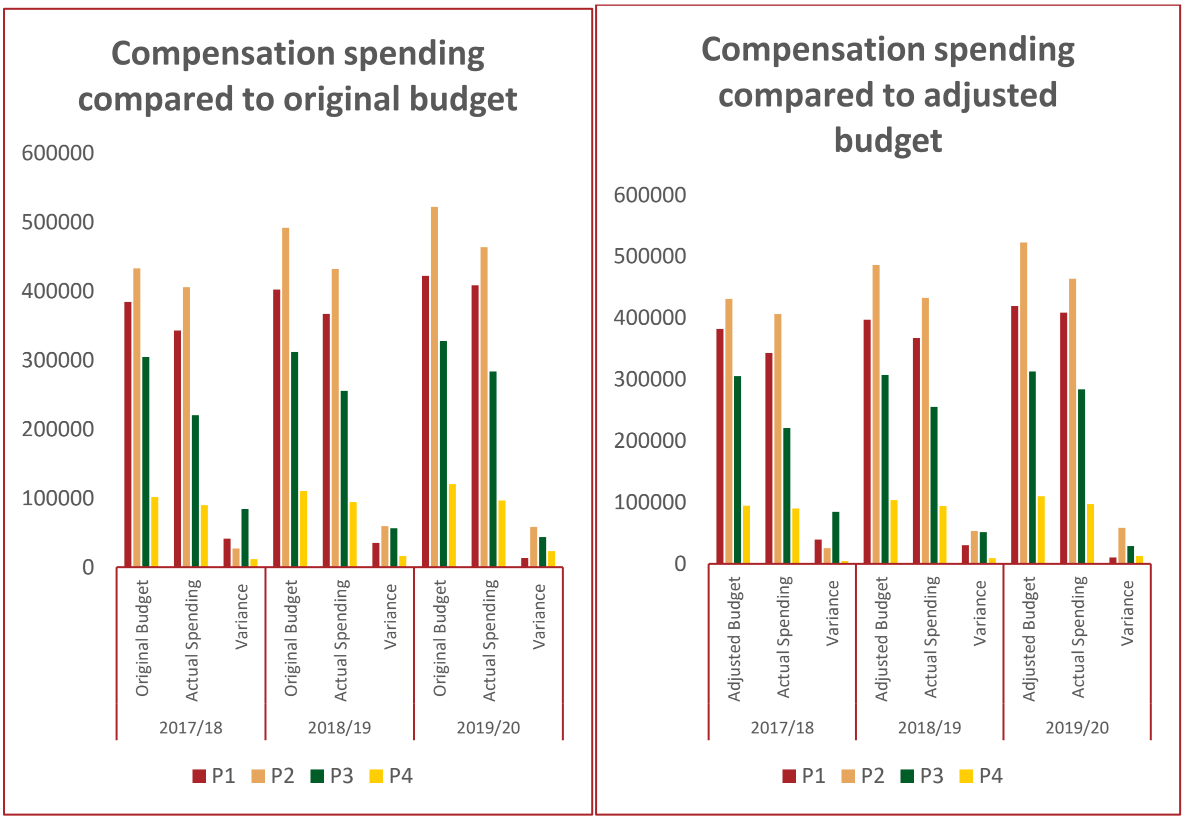
The average cost per vacancy is R271 507 in *Programme 2: IES*; R312 302 in *Programme 1: Administration*; R412 445 in *Programme 3: Public Employment Services* with the highest average cost in *Programme 4: Labour Policy and Industrial Relations* at R630 526.

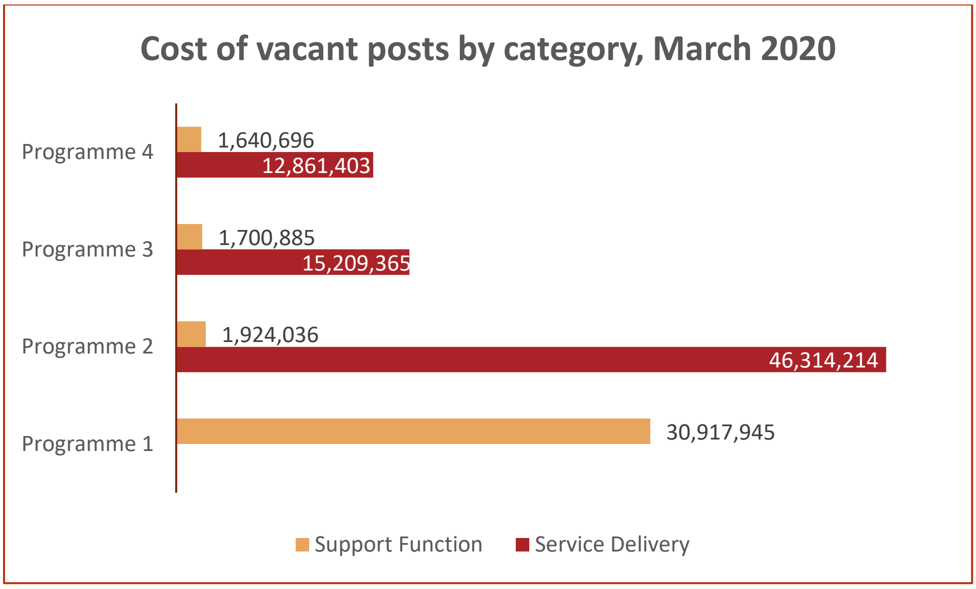
Programme 2 has the lowest cost per vacancy compared to the other programmes due to the percentage split of costs of posts based on time spent on DEL, UIF and Compensation Fund work.

Of the 178 posts in Programme 2, 166 posts spend 60 per cent of the time doing DEL work compared to Programme 1 where only 28 of the 99 posts spend 60 per cent of the time doing DEL work. Programme 3 has 37 of 41 posts that spend 70 per cent of the time doing DEL work whilst Programme 4 has five of the 23 vacant posts that spend 80 per cent of the time doing DEL work. Programme 2 has the highest percentage split vacant posts compared to the other three programmes mainly as a result of inspectors also spending 40 per cent of their time conducting inspections on compliance with the UI Act, and the Compensation for Occupational Injuries and Diseases Act (COIDA). The average cost per vacancy is impacted by the number of vacant posts per programme, the percentage split of time spent doing DEL work and the salary level of a vacant post. The higher the salary level and time spent doing DEL work, the higher the average cost of a vacant post.

The subprogramme: *Compliance, Monitoring and Enforcement* in Programme 2 conducts all compliance inspections. In 2017/18 214 946 employers were inspected for compliance with employment laws at a cost of R414.8 million, in 2018/19 218 919 employers were inspected at a cost of R439 million and in 2019/20 227 990 employers were inspected at a cost of R436.1 million. The average cost of inspections has fluctuated over the three years from R1 930 in 2017/18, up to R2 005 per inspection in 2018/19 and then down to R1 913 per inspection. The fluctuation in the cost per inspection is aligned to the number of filled inspector posts which decreased from 1 228 in 2017/18 to 1 137 in 2018/19 and then grew to 1 340 in 2019/20. The higher the number of filled inspector posts or number of inspections conducted, the lower the cost per inspection.

Figure 7: CoE spending against budget and cost of vacant posts





Source: own work

5.3 Implications of underspending

Some of the key challenges that South Africa faces is high levels of poverty, low levels of education and increasing unemployment. This triple challenge places increasing demands on the fiscus, and was further impacted by the Covid-19 pandemic restrictions. The Fiscal consolidation approach adopted by Treasury places a greater demand for every rand that government has in its coffers. DEL's consistent underspending on compensation of employees raises an important issue:

- The lost opportunity cost of unspent funds.

This consistent CoE underspending places the department at great risk of having its CoE budget reduced at a much higher percentage compared to other departments.

6. Options

What are the key options open to the Department in order to fill these vacancies? There are a few options for the DEL. This includes:

- Opting to continue to underspend in the hope that the problem fixes itself eventually – very much like they are currently doing. However, the risk with this option is that Treasury might eventually take the funding away given the precarious fiscal position that the country finds itself in.
- Reconfiguring the operational model to determine what it can do with the resources available to it.
- Exploring the option of upgrading the salaries of critical inspector posts by abolishing 68 'inspector' posts valued at R12.8 million, or abolish the 178 posts in Programme 2 valued

at R48.2 million and create inspector posts at more competitive salary levels compared to the private sector.

- Considering possible innovative ways of retaining inspectors possibly through the introduction of something like a 'community service' model for inspectors – this approach can retain inspectors for at least a minimum of 2 to 3 years.
- Additionally, if the Department is not filling administrative positions, then abolishing 60 per cent of vacant support function posts across all Programmes will save R21.7 million. These funds can be used to create more employment practitioner or client service officer posts in Programme 3 in order to provide dedicated youth employment centres that talk to the Presidential Youth Employment Initiative – National Pathway Management programme which is similar to the EU funded programme that the DEL is implementing.
- Treasury could explore the option of establishing a directive where all positions which are vacant for three years or more will no longer be funded and would need to be abolished and the baseline reduced accordingly. This will yield an estimated R11.6 million savings on DEL total cost from 35 posts of which 26 are service delivery posts and nine are support function posts. However, this rule can't be created just for the DEL but would need to be applied across government. This would require consultation with the Department of Public Service and Administration responsible for the Public Service Act and Regulations as well as norms and standards for the public service in order to ensure that the state machinery functions optimally.

7. Recommendations

This spending review recommends that the DEL:

- Does urgent research across government to find out what other departments are doing to retain specialised occupations/skills excluding an Occupation Specific Dispensation (OSD).
- Conducts a survey amongst inspectors to determine if salary is the only factor that accounts for the exit of inspectors. This could be done in the short term.
- Protect posts in Programme 3 – Programme 3 plays an important role in facilitating employment through work seeker and job registrations and placement and matching of registered work seekers. This can be implemented immediately in light of the focus on creating dedicated youth employment centres to assist the youth prepare and gain employment.
- The department needs to verify and confirm the correctness of its establishment on PERSAL as this can create false data on vacant and filled posts.

- The department needs to apply organisational development principles for the percentage split posts, i.e. time spent on a specific job, in order to determine whether a post belongs to DEL or UIF or Compensation Fund.
- The department must first determine the extent of the erosion of vacant posts, due to CoE reductions to departments allocations, in order to contain the public sector wage bill. Upon receipt of the 2021 MTEF allocation letters, the department must first determine this before embarking on any exercise to abolish and recreate or reconfigure vacant funded posts in order to capacitate the inspectorate and work seeker and employer services functions.

8. Actions

- This spending review was overtaken by the 2021 Budget process which resulted in baseline reductions to CoE across all three years of the 2021 MTEF period as well as in 2020/21 financial year.
- To ensure workers' rights are protected and employment is facilitated it will not be prudent to reduce the compensation budget of this department given the substantial CoE reductions in 2020/21 and over the 2021 medium term to contain the wage bill. Adequate capacity is crucial to the enforcement of the decent work agenda and enhancing the abilities of work seekers, especially youth, to gain employment. It is recommended that the department revisits its vacancies and reallocates vacant posts to ensure that Programmes 2 and 3 are well capacitated to make an impactful contribution in protecting workers and reducing unemployment.
- The findings and recommendations of this spending review must be shared with the DEL to inform the department's choices when reducing vacant posts. The importance of the final list of vacant posts after implementing the baseline reductions is crucial to capacitating Programme 3's work seeker and employer services programmes and revising the salaries of labour inspectors in collaboration with the DPSA.

9. Appendices

1. Workbook with PERSAL data and analysis (see attached)

national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

Unemployment in the Department of Employment and Labour!

A spending review on vacancies in the Department of Employment and Labour

Prepared by Judy Naidoo

Director: Employment and Labour & Sports, Arts and Culture

2. Table 1: Logframe

IMPACT		A labour market which is conducive to investment, economic growth, employment creation and decent work						
Indicator		Number of filled posts						
Frequency		Annually						
Source of data		PERSAL						
OUTCOME	OUTC1	Decent Work and stable labour market	OUTC2	Decent Work (increased compliance)	OUTC3	Decreased unemployment	OUTC4	Transformed and stable labour market
Indicator		Percentage of set targets per programme achieved		Number of employers inspected per year to determine compliance with employment laws		Unemployment rate		Number of protest actions averted due to Section 77 (LRA) engagement
Frequency		Annual		Annual		Annually		Annually
Source of data		Department of Employment and Labour		IES Case Management & Reporting System		STATS SA		Department of Employment and Labour
Final Output				Non-compliant employers prosecuted		Workseekers matched to registered jobs		Labour Market regulated
Indicator				Percentage of non-compliant employers who failed to comply with the served notice referred for Prosecution within 30 calendar days		Number of registered employment opportunities filled by registered work seekers		Number of employment equity compliance inspections conducted
Frequency				Daily		Annually		Annually
Source of data				IES Case Management & Reporting System		ESSA System		IES Case Management & Reporting System
Intermediate outputs	IOUT1	A functional, efficient and effective department	IOUT2	Serve non-compliant employers with a notice	IOUT3	Worksekers and jobs registered	IOUT4	Sound labour relations promoted
Indicator		Percentage of support services delivered within specified timeframes		Percentage of non-compliant employers of those inspected served with a notice in terms of relevant employment law within 14 calendar days of the inspection		Number of work seekers and employment opportunities registered on the Employment Services of South Africa system		Percentage of collective agreements assessed and verified within 180 working days of receipt
Frequency		Annual		Daily		Annually		Annually
Source of data		Department of Employment and Labour		IES Case Management & Reporting System		ESSA System		Department of Employment and Labour
Activities	1.4	Manage human resources	2.4	Amend Occupational Health & Safety Bill	3.4	Provide employment counselling	4.4	Register Labour organisations
Indicator		Ratio of vacancies to filled positions		Amended Occupational Health & Safety Act published in government gazette		Number of work seekers provided with employment counselling		Number of labour organisation applications for registration approved
Frequency		DEL		When required		Annually		Annually
Source of data		PERSAL		DEL and GOV Websites		ESSA System		Department of Employment and Labour
Activities	1.3	Manage departmental finances	2.3	Conduct advocacy sessions	3.3	Register Private Employment Agencies	4.3	Amend employment Equity Act
Indicator		Underspending on CoE		Number of formal Advocacy sessions conducted per year to increase awareness of employment law.		Number of private employment agencies registered		Amended Employment Equity Act published in government gazette
Frequency		Daily		Quarterly		Annually		When required
Source of data		BAS		Department of Employment and Labour		DEL Website		DEL and GOV Websites
Activities	1.2	Provide IT services	2.2	Conduct inspections	3.2	Support Workers with Disabilities	4.2	Investigate the impact of National Minimum Wage
Indicator		Frequency of system downtime		Average unit cost per inspection		Number of councils and workshops for persons with disabilities supported		Changes to the National Minimum Wage gazetted
Frequency		Daily		Annually		Annually		Annually
Source of data		Department of Employment and Labour		Department of Employment and Labour		Department of Employment and Labour		Department of Employment and Labour
Activities	1.1	Procure goods and services	2.1	Train inspectors	3.1	Regulate migrant/scarce skills employment	4.1	Labour Market Research
Indicator		Procurement is implemented in compliance with Frameworks, Treasury Regulations and PFMA		Number of training sessions held		Migrant Workers Policy published		Number of research reports on the impact of labour legislation on the labour market produced
Frequency		Daily		Annually		DEL		Annually
Source of data		LOGIS		Department of Employment and Labour		Department of Employment and Labour		DEL LMIS
Inputs		DG; DDG's; CFO; CIO; Staff ;BAS, LOGIS, PERSAL systems; Office accomodation;		Inspectors and tools of trade, Provincial head of inspections, Chief Inspector, Inspector-General, staff registering reported cases, client service officers, training materials		Client Service Officers, Employment Counsellors, Psychologists, Kiosks, computers, Psychometric assessments,		DDG, Chief Directors, Directors, Staff, Researchers, Registrar of Labour Relations, National Minimum Wage Commission,
Indicator								
Programme elements		*Programme 1*		*Programme 2*		*Programme 3*		*Programme 4*
Responsibility		DG, COO and DDG's		Chief Inspector		CD: Employer and Workseeker services		CD: Labour Relations and CD: Labour Market Policy

3. *Table 1: Key performance indicators in the DEL*

Indicator	Programme	Targets			Outcomes[9]		
		2017/18	2018/19	2019/20	2017/18	2018/19	2019/20
1. Number of employers inspected per year to determine compliance with employment law	Inspection and Enforcement Services	217 008	218 732	220 692	214 946	218 919	227 990
2. Percentage of non-compliant employers of those inspected served with a notice in terms of relevant employment law within 14 calendar days of the inspection	Inspection and Enforcement Services	80%	80%	80%	100% (29 612/ 29 612)	99.7% (41 569/ 41 710)	99.7% (42 249/ 42 378)
3. Percentage of non-compliant employers referred to Statutory Services who failed to comply with the served notice in reference to 1.2 referred for Prosecution within 30 calendar days	Inspection and Enforcement Services	65%	65%	65%	75% (690/918)	76% (747/986)	72% (4 475/ 6 231)
4. Percentage of reported incidents finalised within 90 days	Inspection and Enforcement Services	60%	60%	70%	35% (2 667/ 7 617)	60% (2779/ 4619)	84% (466/558)
5. Number of work seekers registered on the Employment Services South Africa database per year	Public Employment Services	500 000	650 000	700 000	890 523	888 553	929 770
6. Number of registered work seekers provided with employment counselling per year	Public Employment Services	140 000	200 000	210 000	193 473	240 675	264 004
7. Number of work and learning opportunities registered on the Employment Services South Africa database per year	Public Employment Services	60 000	85 000	90 000	109 917	142 804	153 973
8. Number of registered employment opportunities filled by	Public Employment Services	8 000	42 500	45 000	21 076	49 968	62 213

[9] Department of Employment and Labour 2017/18, 2018/19 and draft 2019/20 Annual reports

Indicator	Programme	Targets			Outcomes[9]		
		2017/18	2018/19	2019/20	2017/18	2018/19	2019/20
registered work seekers per year							
9. Percentage of collective agreements extended within 90 calendar days of receipt by 31 March each year	Labour Policy and Industrial Relations	100%	100%	100%	50%	80% (16 of 20)	88 (30/34)
10. Percentage of labour organisation applications for registration approved or refused within 90 days of receipt by 31 March each year	Labour Policy and Industrial Relations	100%	100%	100%	98%	92% (133/144)	99% (144/145)
11. Review of the National Minimum Wage by January each year	Labour Policy and Industrial Relations	Institution of the National minimum wage set up by March 2018	Implementation of the National Minimum Wage by 1 May 2018	Review of the National Minimum Wage by 1 January 2020	Not Achieved NMW Bill is still before Parliament for consideration	Not Achieved Implementation of the National Minimum Wage by 1 May 2018 not achieved only completed by 1 January 2019	Review of the national minimum wage not achieved by 1st January 2020, only reviewed on 1st March 2020

Source: Estimates of National Expenditure 2020 and DEL Annual Reports 2017/18, 2018/19 and draft 2019/20