

THE AGE REPORT

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IBA Global Employment Institute



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THE INTERNATIONAL BAR ASSOCIATION

History

Inspired by the vision of the United Nations (UN) and with the aim of supporting the establishment of law and administration of justice worldwide, representatives of 34 national bar associations gathered in New York on 17 February 1947, and created the International Bar Association (IBA).

IBA membership grew steadily and in 1970 accelerated with the admission of individual lawyers to the IBA and the formation of the Section on Business Law.

In 1974, the Section on Legal Practice was formed and in 1982 a third section, the Section on Energy and Natural Resources Law was created.

The Standing Committee on Human Rights and the Just Rule of Law was formed in the 1980s. In 1992, an Action Plan was adopted to establish a Trial Observer Corps and investigate cases where judges and lawyers, or the independence of bar associations were threatened. In 1995, the formation of the Human Rights Institute expanded this work and gave the opportunity for member organisations and individual members to actively contribute.

Since its inception in 1948, over 200 bar associations and law societies worldwide have joined the IBA. Together, they make the IBA 'the global voice of the legal profession'. The bar associations form the governing 'Council' of the IBA which passes resolutions and guidelines that influence and support the worldwide legal profession.

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Aims and objectives

The principal aims and objectives of the IBA are:

- To promote an exchange of information between legal associations worldwide;
- To support the independence of the judiciary and the right of lawyers to practice their profession without interference; and
- To support human rights for lawyers worldwide through its Human Rights Institute.

The IBA works towards these objectives through three main areas of activity:

- Services for individual lawyer members through its divisions, committees and constituents;
- Support for activities of bar associations and in particular, developing bars; and
- Support of human rights for lawyers worldwide.

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THE GLOBAL EMPLOYMENT INSTITUTE

The International Bar Association Global Employment Institute (IBA GEI) was formed in early 2010 with the purpose of developing a global strategic approach to the main legal issues in the human resources and human capital fields for multinationals and worldwide institutions.

Drawing on the wealth of resources of the IBA membership, the IBA GEI's skilled, dedicated and experienced members provide a unique employment, discrimination and immigration law contribution to private and public organisations throughout the world on a diverse range of global issues. This is designed to enhance the management, performance and productivity of those organisations and to achieve best practice in their human capital and management functions in a strategic perspective.

IBA GEI's activities include:

- Reports on global and strategic HR legal issues;
- Reports on the impact of market and business trends on international HR legal practice;
- Research and analysis on key issues affecting management and human capital functions within multinationals;
- Strategic commentary and opinions on discrete areas of employment, discrimination and immigration practice and their relevance to current business trends;
- Providing commentary to proposed new or reformed government legislation on major HR legal issues;
- Commentary and analysis on strategic management and HR legal issues affecting certain globalised industries and market sectors;
- Training and education of HR professionals and managers on strategic and global HR issues; and

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- Organising conference sessions on global and strategic employment and HR legal issues of topical interest.

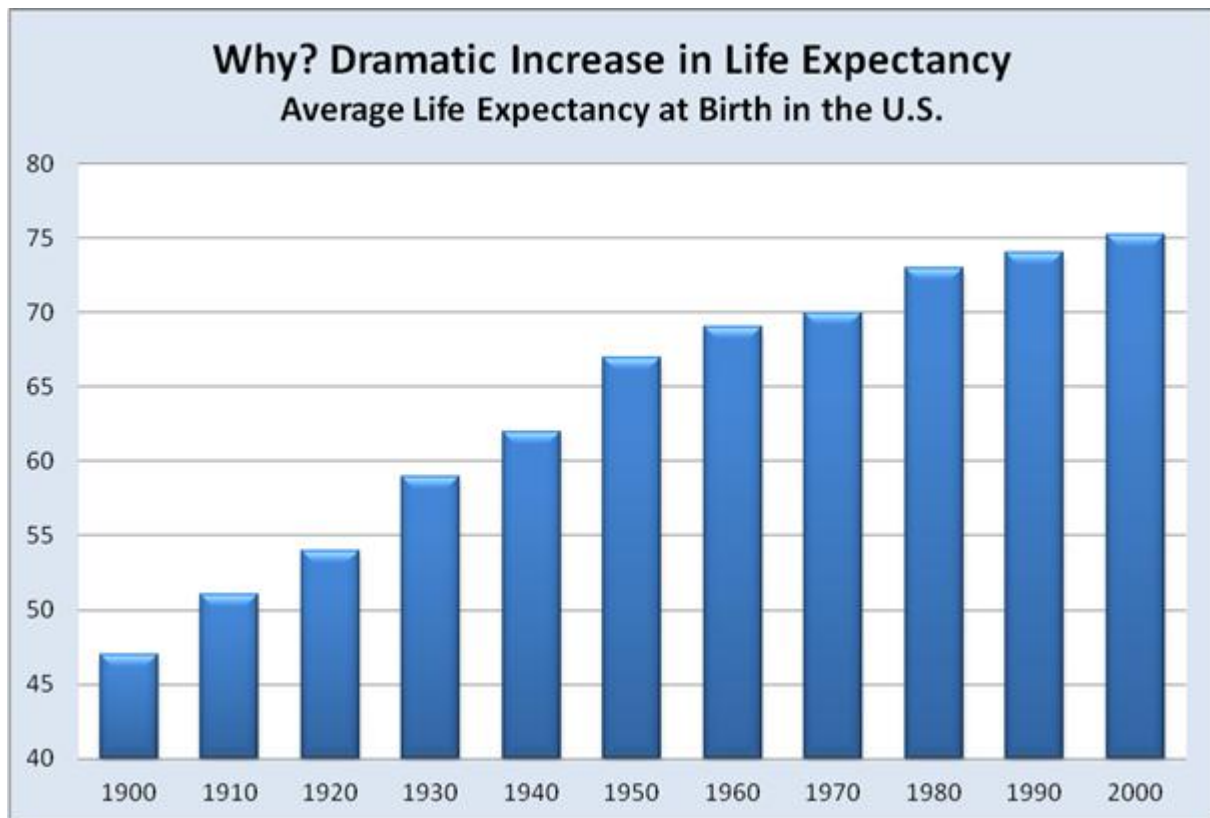
The IBA Global Employment Institute is becoming the leading voice and authority on global HR issues by virtue of having a number of the world's leading labour and employment practitioners in its ranks, and the support and resource of the world's largest association of international lawyers.

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WHY AGE?

In the beginning of this the 21st century, we are witnessing major changes in the way employees coexist and interact inside organizations. This change is very much influenced by the Technology and Communications revolution, the arrival of young and skilled employees into the workforce, longer life expectancies, the elimination of mandatory retirement ages, and the emergence of new methods of communication in the workplace.



There now exists a more complex work environment where many different generations share projects, duties, responsibilities and parts of their lives. For the first time, four generations are working side by side. However, the older workers are not necessarily the bosses and the younger workers are increasingly challenging how things have traditionally

been done, in part because they have different values, ideas, and methods of doing things including ways of communicating.

According to some experts, ie. Melissa Proffitt Reese and Tiffany Sharpley, Inside Indiana Business, citing Linda Gravett and Tobin Throckmorton (Bridging the Generation gap), one can clearly identify four and even five generations in our world today, four of which are working: Radio Babies, Baby Boomers, Generation Xers, Generation Yers and Generation Zers. Although different labels are used in different parts of the globe, changing workplace demographics are a pervasive issue across cultures and are present in all types of economies.

Employment laws, anti-discrimination laws and social security regulations are influenced by this new reality.

Generational differences present new challenges at various stages of the employment relationship for example:

- a. Selection and recruitment is influenced by discrimination laws. In addition, modern technology is increasingly being utilised in recruitment in order to advertise opportunities as well as make contact with candidates ;
- b. How companies and workers communicate and interact and the associated legal risks arising from new means of communication;
- c. Evolution from the classic legal subordination to the need to develop new types of talent, leadership and team work;
- d. Internal regulations, values, commitment, expectations and ways to motivate and deal with change and legal obstacles;
- e. Social Security laws contingencies; and
- f. Other legal and HR aspects such as teamwork, flexibility, telework, youth employment, early retirement, definition of working day, vacations, private life exposure and freedom of speech.

THE AGE REPORT

This report addresses the topic of age from a global legal perspective and attempts to identify the socio-demographic characteristics and relevant issues arising in different regions. This research is important for companies as, according to Gravett and Thorckmorton, one of the key consequences for companies confronted with age related issues is retention. This is an issue for employers given the costs associated with employee turnover. In addition, knowledge and talent can be lost when older employees retire without appropriate organisational transition to younger workers.

This report is based on a survey of multinational employers. The survey was distributed in English and Spanish to make it easier to gather the views of local HR managers in different industries in various parts of the world.

The report focuses on certain key themes and seeks to draw conclusions about best practices on how to:

- a. Identify communication barriers between the different generations in the workplace;
- b. Reduce litigation, labour disputes, confrontations and misunderstandings caused by communication difficulties;
- c. Manage intergenerational groups without infringing employment laws;
- d. Motivate all workers (without infringing anti-discrimination laws);
- e. Identify the underlying values and characteristics of all workers in order to understand the expectations, priorities and needs of the different generations;
- f. Design inter-generational teams and how to manage conflicts that may arise within them;
- g. Use employment law principles to increase efficiency and productivity in an organization; and
- h. Promote knowledge sharing between the generations within a company.

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THE WORKING GROUP

The Working Group is comprised of expert legal practitioners from Latin America, Europe, North America and Asia.

The following are the members of the working group:

- George Waggott, McMillan LLP, Toronto, Ontario, Canada.
- Paulina Miranda, GFCU, Santiago, Chile.
- Wolnei Tadeu Ferreira, Ferreira Rodrigues Sociedades de Advogados, Brazil.
- Todd Solomon, McDermott Will & Emery LLP, Chicago, IL, U.S.
- Carolyn Knox, Veirano Advogados, Rio de Janeiro, Brazil.
- Carmo Souza Machado, Abreu & Associados – Advogados, Lisbon, Portugal.
- Louise Moore, William Fry, Dublin, Ireland.
- Bernd Weller, Heuking Kühn Lüer Wojtek, Frankfurt, Germany.
- Angelo Zambelli, Grimaldi Studio Legale, Milan, Italy.
- Michele Stutz, MME Partners, Zurich, Switzerland.
- Chris Van Olmen, Van Olmen & Wynant, Bussels, Belgium.
- John Hannan, DLA Phillips Fox, New Zealand.
- Poorvi Chotani, Law Quest Advocate & Solicitors, Mumbai, India.

FINDINGS, PRACTICES AND CONCLUSIONS:

The survey was sent to multinational companies in Europe, North America, South America and Asia. We received more than 50 responses from legal and HR managers worldwide, and our findings are as follows:

- i. **MULTI-GENERATIONAL COMPANIES:** Most companies recognize that they have between 3 and 4 generations working together.
- ii. **RECRUITMENT:** Most companies are experiencing new challenges and opportunities in recruitment due to the increasing use of social media as a source of contact and information for the newer generations of employees.
- iii. **DIVERSITY AND INCLUSION IN THE WORKPLACE:** The need to align individual and organizational interests and ideas is a strong trend. This is a particular challenge when attempting to reconcile the desired need for diversity and inclusion with company culture. Some companies identify the need to understand how to accommodate female employees' needs and priorities as a special challenge, due in part to legal obstacles to adapt employment policies, workplace rules, and related human resources practices, which appear in some cases not to be flexible enough.
- iv. **HIGH TURNOVER:** In most cases, turnover is higher amongst the younger generations especially during the first two to five years of service with a company. Some of this is as a result of the increased use of temporary forms of work. Different expectations among younger generations are also a significant contributing factor to high turnover.
- v. **COMMUNICATION:** Almost all companies agreed on the importance of communication and the need to find a suitable common language and channel of communication. Most

companies mentioned that the channels of communication needed to be diversified in order to reach all generations and groups. Communication appears to be a key issue in assisting the various generations to understand each other and work effectively together.

- vi. **FREEDOM OF SPEECH:** Younger generations are generally accustomed to instant and direct means of communication (for example instant messenger). In many cases, older generations consider this as “over-communication”, the content of which is often perceived as inappropriate. This divergence in practices and perspectives on communications can create legal challenges regarding the regulation of workers and the scope of their permitted speech, both during the ordinary course of employment and while off duty. With the emergence of more diverse workplaces and perspectives, it becomes difficult to establish, manage and enforce norms of communication and the related boundaries and rules regarding employee speech and conduct.

- vii. **TECHNOLOGY AND COMMUNICATIONS:** Some companies identified the reliance on electronic communication and social media as an important topic and a source of misunderstanding between different generations.

- viii. **LEADERSHIP:** Development of talent and leadership has been identified as a very important topic even though not all companies found that these challenges were specific to age and the different generations in the workplace. However, certain managers recognize that there is a new model of leadership which encompasses a different approach to generating respect and loyalty. This new attitude to leadership means that leaders are not simply chosen based on position, tradition or age. This can create intergenerational issues which can lead to legal implications. The concept of participative management appears repeatedly.

- ix. **FLEXIBILITY AND EXPECTATIONS:** Managers identified that flexibility was needed from the company's side in order to deal with differing values, commitments and expectations of the different generations of employees. Communication has been highlighted again as a key tool for management of these issues.

- x. **IMPORTANCE OF CHALLENGES AND VALUES:** Newer generations place a greater importance on challenging work and the values associated with employer's brand, with salary having less importance than it did historically. They do not seem to expect lifetime jobs.

- xi. **MOTIVATION:** Employers are also expected to be more creative in order to motivate employees according to their specific generational preferences.

- xii. **CHANGE:** All workplaces experience change but this is generally not considered a challenge related to age. Indeed, the advances in information technology are transformational issues in all workplaces and areas of the economy without specific regard to age.

- xiii. **THE WORKING DAY:** The flexibility of the working day is a key factor for younger generations who expect to own and manage their own schedules and mix personal and professional time schedules. This creates legal challenges and obstacles in some countries. This means that barriers to private life are lifted, and everything is shared and exposed.

- xiv. **RETIREMENT:** In some countries, retirement is mandatory at a certain age and this does not present a legal challenge for companies. However, in other countries, it is not a challenge legally to force employees to retire at a specific age. As some employees now expect to continue to work later in life, this can lead to more intergenerational workplaces.

- xv. **PARENTHOOD:** The expectations of the newer generations regarding parental responsibilities are different and can result in challenges from a legal and management perspective. More flexibility is expected both by men and women parents, but in some jurisdictions there continues to be legal obstacles. In many cases, the erosion or demise of traditional male-dominant models has contributed to more widespread interest in and support for more flexible work arrangements.
- xvi. **HEALTHCARE:** Healthcare costs, for most companies, are not directly impacted by the presence of multiple generations at work. However, some employers mention additional social security costs which result from having a wider range of ages in the workforce.
- xvii. **TRAINING:** Most companies understand that managers need to be trained in how to deal with and communicate effectively with the different generations in the workplace and ongoing coaching is a vital tool in assisting this.
- xviii. **PRODUCTIVITY:** Productivity is not necessarily affected or challenged due to generational differences.
- xix. **WHAT EMPLOYEES NEED:** Most companies understand that there are differing interests and needs in the workplace depending on the age group of the employee. However it is acknowledged that these needs cannot always be satisfied due to discrimination laws which prohibit different treatment based on age.
- xx. **ADDRESSING EMPLOYEES' CONCERNS:** Most companies recognized the need to take measures in their organizations to respond to employees who have raised concerns related to the different generations working together, but few companies had developed practical strategic measures to address these concerns.

- xxi. **NEED FOR PERSONAL CONTACT:** Training and meetings appear to be widely preferred when conducted in person as opposed to through virtual methods. Even younger generations emphasize the need for personal contact in order to socialize.

- xxii. **MOTIVATION:** Motivation is not provided for in the traditional tools. New values are perceived. Flexible work arrangements are sometimes also required in order to motivate older workers.

- xxiii. **TEAM BUILDING:** Many organizations attempt to use age as a criterion to build teams, and thus integrate different generations. This is often justified both for succession reasons and as an attempt to enhance productivity across the workplace. There can be challenges, however, with an overuse of age as a primary selection criterion when assembling teams. In particular, other organizational priorities, such as a requirement for particular skillsets and attributes of team members may be more significant to team or organizational success.

- xxiv. **DISCRIMINATION:** Only a few companies acknowledge that prejudice exists against older generations in the workforce.

- xxv. **LACK OF GENERATIONAL TOOLS:** Some companies appear to react in a defensive way when they are asked if they have different tools for motivating or compensating different generations. They seem to be concerned with being accused of age discrimination than with giving answers to enquiries from employees from different generations.

- xxvi. **DIFFERENCE VERSUS DISCRIMINATION:** The expansion of anti-discrimination policies might be having an adverse effect in the workplace because, while treating all employees

the same, companies are choosing to provide the conditions of employment that are only preferred in principle by one or two generations.

- xxvii. **DIVERSITY AND INCLUSION:** Diversity and inclusion appears to be two of the main motivations to foster communication and productivity in order to get the best from each employee. However, when putting these ideas into practice such as in policies or working conditions the difficulties become greater.

- xxviii. **SOCIAL SECURITY:** Older generations appear to value retirement benefits but many try to delay their date of retirement. Younger generations do not seem to value retirement benefits as much but expect to retire and have time to do other things later in life. However, in some countries with strong public social security systems, the retirement and health care issues are not influenced, from the employer's perspective, by the different generations working together.

- xxix. **NEW CHALLENGES:** In most countries, the generational changes are not perceived to impact or present challenges on how to deal with employees becoming parents. However, in some countries, legislation does not appear to provide adequate flexibility for male parents to share responsibilities and there are different perceptions about the male parents' role and same sex families, and how responsibilities are allocated.

OTHER GENERAL CONCLUSIONS AND IDEAS FOR FURTHER DEVELOPMENT:

- i. BYOD (Bring Your Own Device). If employees have better technological devices than those provided by the company, this may create challenges from an Intellectual Property perspective.
- ii. Equal treatment does not mean equal opportunities when employees and their companies have different needs and expectations.
- iii. Many companies consider organizational climate surveys to be a very important tool to assess what is going on within their organisation.
- iv. The role of leadership and communication is key to preventing the loss of skilled (typically younger) workers.
- v. Quicker rewards are expected by younger generations, whereas predictability for the future (and job security) is more important for the older generations.
- vi. The traditional employment contract is unsuitable in many countries to match the expectations of the newest generations of employees together with prevailing economic conditions which demand flexibility.

THE SURVEY FOR EMPLOYERS

SECTION A:

1. Do you consider that generational differences present new legal and management challenges in any of the following areas:

a. recruiting:

Yes ? No ?

Explain:.....
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b. how companies and workers communicate:

Yes ? No ?

Explain:.....
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c. how workers use and rely on social media and other means of electronic communication:

Yes ? No ?

Explain:.....

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d. how companies develop talent, leadership and team work:

Yes ? No ?

Explain:.....
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e. how companies deal with differing values, commitment and expectations:

Yes ? No ?

Explain:.....
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f. how companies can motivate workers (different types of incentives and remuneration, retention tools):

Yes ? No ?

Explain:.....
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g. how companies and workers deal with long term changes:

Yes ? No ?

Explain:

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h. how companies deal with mandatory retirement requirements:

Yes ? No ?

Explain:

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i. how companies deal with the employees who become parents:

Yes ? No ?

Explain:

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j. how companies manage healthcare and social security costs:

Yes ? No ?

Explain:

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k. in any of the following other aspects:

- management techniques: Yes ? No ?

Explain:

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- productivity: Yes ? No ?

Explain:

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- team building: Yes ? No ?

Explain:

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- the definition of the working day (i.e. flexi-time/remote working):

Yes ? No ?

Explain:

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- the work/life balance, private life exposure and freedom of speech:

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Yes ? No ?

Explain:.....
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- protection of company intellectual property and the use of company owned or privately owned devices for work:

Yes ? No ?

Explain:.....
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2. Do you identify any other employment law issues in relation to the challenges presented by generational differences at work?

Yes ? No ?

Explain:.....
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3. Are you aware of any particular company policies, practices and training used to enhance inter-generational team work?

Yes ? No ?

Explain:.....

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SECTION B:

Please explain your company's practice in relation to the following:

1. What is the age profile in your organisation? How many generations co-exist in your organisation?

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2. How does your company communicate with the different generations in the work place?

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3. How does your company identify communication barriers that might exist and how does your company deal with these barriers if they arise?

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4. Does your company have a social media policy and if so, please give details of this.

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5. Does your company experience confrontations and misunderstandings as a result of communicational difficulties at the workplace and if so, how does it deal with these issues?

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6. How does your company manage the different generational groups in its workforce?

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7. How does your company motivate all employees? Is there a contrast between the generations in relation to what motivates them at work? (i.e. money versus freedom and flexibility, overtime pay versus remote working)

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8. Do gender and/or race contribute to inter-generational differences at your company?

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9. How does your company identify the underlying values or characteristics of the different generations in the workplace in order to understand their expectations, priorities and needs? How important is this in the workplace?

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10. Does your company structure reward differently depending on the recipient generation? If so, how does this structure operate?

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11. How does your company put inter-generational work teams together?

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12. How does your company strive to increase efficiency and productivity in order to get the best from everyone in the organisation?

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13. How does your company promote knowledge sharing amongst the different generations?

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14. Does your organisation experience higher turnover amongst the younger generations?

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15. What tools are put in place to prevent skilled “Y” generation workers leaving for “new challenges”?

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16. What form of remuneration policies does your company use to incentivise younger generations?

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17. How does your company train the different generations on the use of new technologies and social media?

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18. How does your company enhance inter-generational teamwork?

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19. Does your company notice prejudice in relation to certain generations? If so, which ones and what is the prejudice?

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20. Does your company give flexibility to the different generations? If so, please explain your company's practice.

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21. What, in your view, are the most appropriate policies and practices to evaluate and manage the differences among the generations?

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22. Are there specific risks for older workers? Are these risks addressed?

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23. Are there specific risks for younger workers? Are these risks addressed?

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