



## **XpertHR Weekly Podcast**

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- Ellie Gelder: Hi and welcome to this week's XpertHR podcast with me, Ellie Gelder. This week we're discussing practical issues around managing an intergenerational workforce and how to avoid tricky situations that could lead to age discrimination claims. We'll also cover the polarising topic of millennial employees and also hear about the latest findings from XpertHR's Young workers survey.
- I'm joined now by XpertHR employment law editor, Qian Mou, who is going to take us through the issues. So maybe a good place to start, Qian, would be just to set out the background for why intergenerational workforces and millennials in the workplace specifically have received so much attention in the media lately?  
[0:00:50.9]
- Qian Mou: Sure, Ellie. So, just to set the stage, when we say millennials in this podcast, we'll be referring to people who, in 2017, are aged 17 to 36, and as of 2015 the number of millennials in the UK workforce was about 11 million, so that's 35% – quite a large proportion of the workforce – and due to increase in the coming years. Because millennials are seen as quite different from other generations, and because they're such a big part of the UK workforce, the media and the HR consulting industry have really latched on to the idea that employers need guidance on managing an intergenerational workforce and millennials in particular.
- Ellie Gelder: Right, so I often hear millennial workers, a group to which you and I belong, Qian, described as digital natives requiring a lot of personal feedback and support, and as less likely to stay with a given organisation for longer than a few years. [0:01:44.2]
- Qian Mou: Yes, so these stereotypes are very common and they can seem to be rooted in broader social or economic trends. But the notion that millennials, as a generation, have unique values or qualities that make them a different type of worker, this idea is actually quite contentious and coming under increasing scrutiny.
- Ellie Gelder: So what's the criticism? [0:02:04.6]
- Qian Mou: Well the main criticism is that studies on millennials often don't compare findings across generations. So it's difficult to tell whether or not Generation X or baby boomer workers also possess similar characteristics.

Ellie Gelder: Or could it be that differences that do exist can be attributed to age and life-stage which would have applied to the older generations at one point as well? [0:02:26.5]

Qian Mou: Yes, that's definitely a possibility and those traits might also reflect more general trends across a workforce, or a segment of it, rather than a millennial-specific characteristic.

Ellie Gelder: Okay, so if we need to be a bit cautious about the assertions we hear about millennial workers, how then should employers go about managing an intergenerational workforce? [0:02:46.6]

Qian Mou: Well employers can consider incorporating good practices for attracting, engaging and retaining staff on the basis that they will benefit a spectrum of employees and not only millennials.

Ellie Gelder: For example, working from home, which is a practice often seen as particularly appealing to millennials, could be offered across the board on the basis that it would be appealing to all employees? [0:03:08.1]

Qian Mou: Right.

Ellie Gelder: But just being careful about offering benefits that might patronise some staff or be divisive? [0:03:14.0]

Qian Mou: Right. So, for example, sometimes you hear about employers offering table tennis and beers as workplace perks, which can be a bit patronising. And, in terms of morale, it can also be divisive if an employer provides benefits to one group, when in fact they would be welcome across the board.

Ellie Gelder: Not to mention that some practices could constitute age discrimination, which we'll be touching on later in the podcast. [0:03:36.7]

Qian Mou: That's definitely a consideration.

Ellie Gelder: So when we talk about these good practices that are likely to be effective in an intergenerational workforce, can you just give us some specific examples? [0:03:45.6]

Qian Mou: Sure. So our good practice manual on candidate attraction places emphasis on employer branding. So, in addition to describing a job role to candidates, an employer would position its brand by communicating its organisational values, people strategy and HR policies. For existing employees, a major contributor to engagement is providing opportunities to develop.

Ellie Gelder: Whether in terms of new skills or different areas of expertise? [0:04:13.5]

Qian Mou: Right. Our performance management good practice manual has examples of how a personal development plan can provide employees with valuable opportunities and be linked to performance assessments to incentivise and reward workers.

Ellie Gelder: And what about in relation to specific skills, such as technology? So what if your employees have different skill levels with respect to using tech in the workplace, or different ideas about etiquette for using technology? [0:04:39.5]

Qian Mou: Well, most employees will make use of resources that allow them to do well in their roles and this applies to technology as well.

So take, for example, the relatively recent introduction of workplace chat applications. Before their introduction, employers may have been concerned about whether they would be used across employee groups and whether they might be disruptive for some workers. In practice, though, if the application is useful for improving performance or enhancing the customer experience, generational differences probably won't be a barrier to adoption. It's, of course, a good idea to train staff and you might want to have a discussion about norms and etiquette as well.

Ellie Gelder: Right. So don't assume that some workers will be more or less competent with the new technology once they've been trained on it, or that guidelines for general use can't be set down? [0:05:25.0]

Qian Mou: Exactly.

Ellie Gelder: Okay. So far we've discussed why we should be wary of generational stereotypes in the workplace. But in some instances, a demographic will be specifically affected by concrete regulatory or legal changes and we spoke earlier to benchmarking editor Michael Carty, who gave us some insight from XpertHR's Young worker survey 2017. [0:05:46.5]

Michael Carty: The apprenticeship levy will be front of mind for many employers at the moment. From 6 April this year, employers with a pay bill of more than £3 million a year will have to pay 0.5% of their pay bill to fund the costs of apprenticeships. So we might expect the apprenticeship levy to have a major impact on young workers aged 16 to 24, as they represent around 56% of all current apprentices.

But our research suggests otherwise. Around 40% of employees taking part in our survey say the levy will have no impact on the number of young workers they plan to recruit to apprenticeship roles.

However, when we break down the results by organisation size, we see one big exception. Around 60% of employers with 1,000 plus staff say they will increase recruitment of young workers as a direct result of the apprenticeship levy. This is because the largest employers are also the most likely to have to pay the levy, so they may be looking to effectively recover these amounts by taking on more apprentices.

Ellie Gelder: Thanks, Michael. A great example of when targeted public policies will impact on the work situation of a group of workers based in part on age. Let's move on now to the age discrimination issue that we touched on earlier, Qian. Now I think it's safe to assume that age discrimination can apply in cases where an employer is trying to engage or appeal to a certain demographic. [0:07:00.1]

Qian Mou: Of course, but it will also depend on the situation. So the classic example is probably where an employer is looking to fill a role and makes assumptions about the age of the individual who would be a good fit.

Ellie Gelder: So, for example, when hiring for a role in a tech start-up or a role that might require a lot of travel? [0:07:18.8]

Qian Mou: Exactly. In the case of *Canadian Imperial Bank of Commerce v Beck* an employer was looking to replace its head of marketing with someone who had a “younger, more entrepreneurial profile”. The tribunal found that this was clear evidence of age discrimination.

Ellie Gelder: And I suppose the converse situation might be where disparaging comments are made about a young worker due to his or her age? [0:07:41.5]

Qian Mou: Right. In the case of *Osborne & Another v Gondhia & Others* two sisters aged 18 and 21 claimed that they were berated aggressively for minor mistakes. The tribunal held that they had been subject to unfair criticism due, in part, to their age and that the business owners wouldn't have treated a more mature employee in that manner.

Ellie Gelder: And those are instances of individual behaviour. But age discrimination can also apply in cases of widespread policy or practice. For example, a programme that offers benefits to millennial employees only. [0:08:14.0]

Qian Mou: Definitely. A policy or practice could amount to either direct or indirect discrimination if it results in the individual being treated less favourably or being put at a disadvantage because of age.

Ellie Gelder: But we know that hiring policies or staffing decisions based on age can be justified in certain circumstances. For example there are those cases from the European Court of Justice where an age limit for recruitment for roles such a firefighters and police officers has been accepted. [0:08:42.0]

Qian Mou: That's right. In the UK age discrimination can be justified if an employer can show that the treatment is a proportionate means of achieving a legitimate aim. Or an age restriction might be an occupational requirement, which has a similar test to justification.

Ellie Gelder: So in cases from the ECJ, the recruitment age restrictions were warranted, because of the stringent physical requirements of those roles? [0:09:05.3]

Qian Mou: Yes. But if a restriction is too broad or not necessary, it may be considered disproportionate and therefore not meet the requirements for justification or occupational requirements.

Ellie Gelder: And this would be the concern for programmes targeting workers based on vague generational features, that's not really necessary and therefore disproportionate to implement programmes based on assumed characteristics of a generation? [0:09:30.5]

Qian Mou: Yes. So some programmes targeting a very specific demographic are acceptable, such as training for apprenticeships or new graduates, or maybe training older workers who are re-entering the workforce, but otherwise individual development programmes based on an employee's strength and ambitions or, say, organisation-wide engagement programmes that are open to all employees, will be more appropriate.

Ellie Gelder: Thanks, Qian. You can learn more about strategies for candidate attraction, performance management and retention in our good practice manuals and for more information on age discrimination, have a look at our Employment law manual. All of these resources are on the XpertHR home page if you click on the tools dropdown menu. And that brings us to the end of this week's XpertHR podcast, which you've been listening to with me, Ellie Gelder. We'll be back next Friday, but until then it's goodbye from us. [0:10:22.0]