Twitter Thread by sexnotgender.info

sexnotgender.info
@Sexnotgender_

Hi @NewportCouncil @EHRC @EHRCChair @KishwerFalkner @RJHilsenrath @trussliz @GEOgovuk

The Equal Opportunities Monitoring in your job application asks for the 'gender' of the applicant and says "Please select either male or female based on your legal gender"...

1/16

Equal Opportunities Monitoring

Newport City Council is working to ensure that its workforce reflects the city's diverse population. We can only judge our success in this area if we collate diversity monitoring information.

The information you provide on this form will be used by the Council solely to monitor the implementation of its Equal Opportunities and related employment policies in accordance with the Data Protection Act (2018). It will NOT be used for any other purposes or disclosed to any other organisations except in pursuance of our statutory obligations. You can find details on how we handle your personal data in our Privacy Policy.

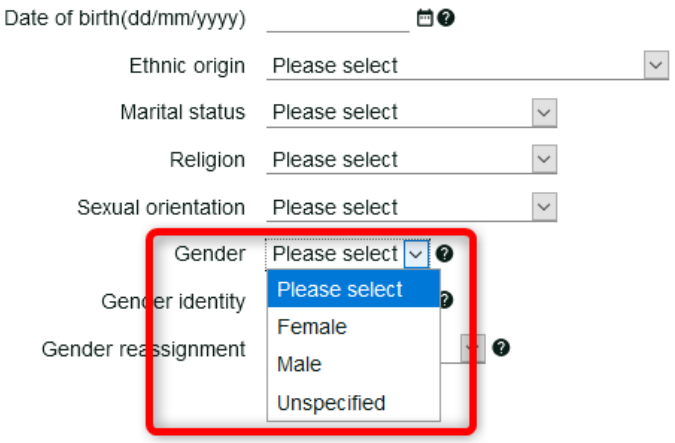
Please note, this information will NOT be provided to the Hiring Manager or Shortlisting Panel.

When we process your ethnicity data, it is done for the purposes of Equal Opportunities monitoring. The data is anonymised for this purpose and is only collected with your express consent, which can be withdrawn at any time. For information on how to withdraw your consent at a later date, please refer to our privacy notice (link above).

Monitoring Information

Please complete the diversity monitoring information below. You can opt not to answer any questions by choosing "Prefer not to specify". Please note, there will be no consequences if you choose not to specify.

You can find further information relating to gender identity here and also in the help icons below.



...with options:

Female
Male.

'Gender' is not a protected characteristic under the Equality Act 2010 and is not defined in the Act.

The term 'legal gender' is not used in the Act or defined in the Act.

https://t.co/qisFhCiV1u

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PART 2

EQUALITY: KEY CONCEPTS

CHAPTER 1

PROTECTED CHARACTERISTICS

4 The protected characteristics

The following characteristics are protected characteristics—

age;

disability;

gender reassignment;

marriage and civil partnership;

pregnancy and maternity;

race;

religion or belief;

sex;

sexual orientation.

Sex is the protected characteristic and the only two possible options for sex are 'Female' and 'Male' as defined in the Act and consistent with biology, but you don't ask for that.

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'Gender' is not a synonym for sex.

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11 Sex

In relation to the protected characteristic of sex—

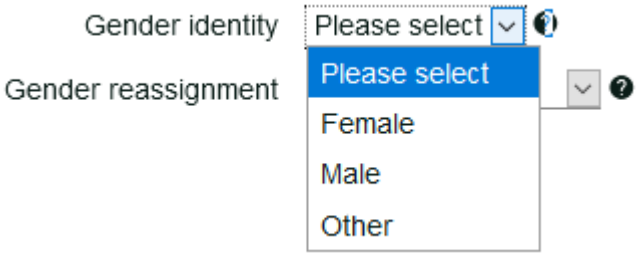
(a) a reference to a person who has a particular protected characteristic is a reference to a man or to a woman;

(b) a reference to persons who share a protected characteristic is a reference to persons of the same sex.

You then ask for the 'gender identity' of the applicant, saying "Gender identity is how you would describe your own gender; this could differ from your legal gender." with the same options of:

Female
Male.

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'Gender identity' is not a protected characteristic under the Equality Act 2010 and is not defined in the Act.

The term 'legal gender' is not used in the Act or defined in the Act.

https://t.co/qisFhCiV1u

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'Gender' and 'gender identity' rely on demeaning, regressive stereotypical notions of societal roles for the two sexes, concepts that I'm sure you would not wish to be associated with.

6/16

You then ask about 'Gender reassignment' saying, "Gender reassignment relates to whether you identify as a gender which differs to the one assigned to you at birth."

7/16

> Gender reassignment relates to whether you identify as a gender which differs to the one assigned to you at birth.

'Gender' at birth is a meaningless concept and 'gender' is not 'assigned' at birth: sex is observed and recorded and is immutable.

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There is a protected characteristic of 'gender reassignment', but the terms you use here are not used or defined in the Act.

https://t.co/2o53ufahzA

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7 Gender reassignment

(1) A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex.

Asking about a personal characteristic such as 'gender' that is not a protected characteristic under the Act, may be in breach of the GDPR by processing personal - and potentially Special Category - data without a lawful basis.

10/16

If you choose not to gather data on specific protected characteristics (such as sex), you cannot have the information required to ascertain whether or not you could be discriminating on protected characteristics in recruitment. This could be vital in an employment tribunal

11/16

If you choose to discriminate on characteristics (such as 'gender') that are not protected characteristics under the Act, you may inadvertently indirectly discriminate on protected grounds.

12/16

Given these errors and your use of incorrect terms, it's not clear how you can meet your Public Sector Equality Duty or how you have met it in the past given your data could have been corrupted by those who didn't provide their sex.

13/16

Nor is it clear how you can have had due regard to the other duties given the data you have collected.

14/16

Language and meaning of words are important and proper use & understanding of terms is vital so that the public is aware of what rights they have and what your duties are. Any confusion or inconsistency over meaning may prevent people from accessing their rights in law.

15/16

Will you undertake to correct these errors and to review all your other policies, documents, reports, etc to ensure compliance?

Please respond.

https://t.co/RJAWJ1vJ6s

@threadreaderapp unroll