Twitter Thread by Alan Henness Esq.



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@zeno001

Hi @WomensBudgetGrp @EHRC @EHRCChair @RJHilsenrath @trussliz @GEOgovuk

The Equal Opportunities Monitoring Form in your job application mentions the Equality Act 2010 and asks for the sex of the applicant with the options male and female.

https://t.co/loHnmc6q0e

1/11

Women's Budget Group Equality Monitoring Form

The Women's Budget Group is committed to promoting equality and diversity. This includes not discriminating under the Equality Act 2010, and building an accurate picture of the make-up of applicants for our posts. We need your help and co-operation to enable us to do this, but filling in this form is voluntary.

The information you provide will be confidential, stored securely and viewed only by authorised officers. It will not be used for the selection process. If you choose to complete this form, please send it to admin@wbg.org.uk

Sex: Female ☐ Male ☐

Gender identity: Woman ☐ Man ☐ Trans woman ☐ Trans man ☐ Non-binary ☐ Other ☐ Prefer not to say ☐

However, you then ask for their 'Gender identity' with options:

Woman
Man
Trans woman

Trans man
Non-binary
Other

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

https://t.co/pNaDVxRAvK

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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.

4/11

Woman and Man are the terms used in the Act for the protected characteristic of sex. The other terms are not used in the Act or defined in the Act.

5/11

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.

There is a protected characteristic of 'gender reassignment', but that is a different protected characteristic to the protected characteristic of sex.

6/11

Asking about a personal characteristic such as 'gender identity' 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.

7/11

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.

8/11

If you choose to discriminate on characteristics that are not protected characteristics under the Act, you may inadvertently indirectly discriminate on protected grounds.

9/11

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.

10/11

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

Please respond.

11/11

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