Twitter Thread by sexnotgender.info

sexnotgender.info
@Sexnotgender_

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

The Equal Opportunities Form in your job application correctly has sex in a list of the protected characteristics under the Equality Act 2010.

However...

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Equal Opportunities Form

The Open University is an equal opportunities employer.

We have an equal opportunities policy, the aim of which is to ensure that no job applicant receives less favourable treatment on irrelevant grounds (e.g. age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation), nor is disadvantaged by conditions or requirements which cannot be shown to be justified and relevant to the job.

In order to ensure that this policy is carried out, it is necessary for us to have some means of monitoring our recruitment and selection activity. Only by such measures will we be able to identify potential sources of discrimination and take remedial action. For this reason, we would be most grateful if you would answer the following questions.

The information will be treated as strictly confidential and will be used for statistical monitoring only. To carry out this approach we need your assistance and would be grateful if you would provide the information requested; none of this information will be seen or used during the selection process.

Section 1

Date of Birth(dd/MM/yyyy)

Day | Month | Year

It is not mandatory at this stage to complete your date of birth, however, this information will be requested again and will need to be captured should you be successful.

Section 2

Gender *
Required

- Select -

- Select -
Male
Female
Unknown
Undisclosed
Others
Prefer not to say

Is your gender the one you were assigned at birth? *
Required

However, you then ask for the 'gender' of the applicant with options:

Male
Female
Unknown
Undisclosed
Others
Prefer not to say.

'Gender' is not a protected characteristic under the Equality Act 2010 and is not 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 - your other terms are not valid or incoherent.

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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 "Is your gender the one you were assigned at birth?"

'Gender' is not 'assigned' at birth: sex is observed and recorded and is immutable.

'Gender' relies on demeaning, regressive stereotypical notions of societal roles for the two sexes.

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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.

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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.

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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.

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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.

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

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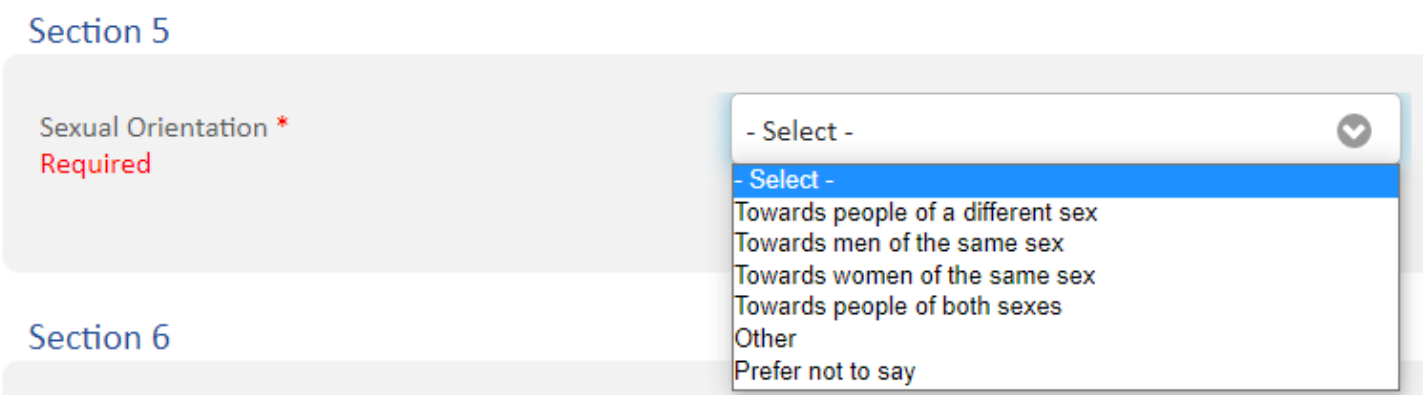
Language and meaning of words are important and proper use & understanding of terms is vital so that the public is aware of what rights they have and what your duties are. Any confusion or inconsistency over meaning may prevent people from accessing their rights in law.

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You might also want to look at the options you provide for the question on the sexual orientation of the applicant:

Towards people of a different sex
Towards men of the same sex
Towards women of the same sex
Towards people of both sexes

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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

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@threadreaderapp unroll