Twitter Thread by sexnotgender.info

sexnotgender.info
@Sexnotgender_

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

The EQUAL OPPORTUNITIES MONITORING FORM in your job application correctly has sex in a list of protected characteristics under the Equality Act 2010

However...

https://t.co/rZk1bAiooU

1/11

JESUS COLLEGE
CAMBRIDGE

EQUAL OPPORTUNITIES MONITORING FORM (OPTIONAL)

Jesus College is an equal opportunities employer and is committed to treating all job applications on their merits. No applicant will be treated less favorably than another on the grounds of sex, gender reassignment, marital/civil partnership or parental status, race, ethnic or national origin, colour, disability, sexual orientation, religion or age. Ability to perform the job is our primary consideration. We would therefore be most grateful if you would be willing to share this information with us and your decision to do so is entirely voluntary.

We will use the information collected from this form for statistical and monitoring purposes only so that we can ensure that our equal opportunities policy is applied. Any statistical reports produced by the College will be anonymised and produced in such a way that that individuals cannot be identified. We will record this personal information on our HR computer system and recruitment files. Only the HR Department will access these files and will treat it with the strictest confidentiality.

This part of the form will be separated from your application form when we receive it and will not be used as part of the selection process or seen by the person undertaking the shortlisting.

Vacancy Title	
Where did you see this advertised?	

Gender	☐	Female
	☐	Male
	☐	Prefer not to say

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

Female
Male.

2/11

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

https://t.co/qisFhCiV1u

3/11

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.

https://t.co/CEJ0gkr6nF

'Gender' is not a synonym for sex.

4/11

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.

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.

5/11

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.

6/11

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.

7/11

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.

8/11

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

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.

https://t.co/RJAWJ1vJ6s

11/11

@threadreaderapp unroll