Twitter Thread by sexnotgender.info

sexnotgender.info
@Sexnotgender_

Hi @UHSFT @uhs_jobs @EHRC @EHRCChair @KishwerFalkner @RJHilsenrath @trussliz @GEOgovuk

The Equal opportunities section of your job application mentions the Equality Act 2010 four times and lists sex as a protected characteristic twice.

However...

1/11

Equal opportunities

Equal opportunities

NHS organisations recognise the benefits of having a diverse workforce and therefore welcome applications from all sections of the community. In addition to this, under the provisions of the Equality Act 2010, all NHS organisations are required to demonstrate that their recruitment processes are fair and that they are not discriminating against or disadvantaging anyone because of their age, disability, gender reassignment status, marriage or civil partnership status, pregnancy or maternity, race, religion or belief, sex or sexual orientation. Therefore a series of questions need to be raised in order to ascertain who is applying for each position and to ensure that no one is being unfairly discriminated against or disadvantaged.

This section of the application form will be detached from your application form and will not be used as part of the selection process nor will it be seen by anybody who is interviewing you. The information collected is only used for monitoring purposes in an anonymised format to assist the organisation in analysing the profile and make up of individuals who apply, are shortlisted for and appointed to each vacancy. In this way, they can check that they are complying with the Equality Act 2010.

The Equality Act 2010 protects people against discrimination on the grounds of:

- their age and sex.
- their race which includes colour, nationality, ethnic or national origin.
- their religion or belief, including a lack of any belief.
- their sexual orientation, be it bisexual, gay, heterosexual and lesbian.

The Equality Act 2010 also protects people who are married or in a civil partnership.

Equality and Diversity Monitoring

Please state your date of birth *

Please indicate your gender *

Please select...

Please select...
Male
Female
I do not wish to disclose

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

Male
Female.

'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 this error 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