

Twitter Thread by sexnotgender.info



sexnotgender.info

[@Sexnotgender](https://twitter.com/Sexnotgender)



Hi [@officestudents](#) [@EHRC](#) [@EHRCChair](#) [@KishwerFalkner](#) [@RJHilsenrath](#)
[@trussliz](#) [@GEOgovuk](#)

The Equality and Diversity section of your job application has 'gender' in what appears to be a list of the protected characteristics under the Equality Act 2010.

However...

1/15

Equality and Diversity



[Personal details](#) | [Career & Education](#) | [Additional information](#) | [Equality and diversity](#) | [Review and submit](#)

Fields marked with * must be completed.

Office for Students is an equal opportunities employer and a Disability Confident employer. In the employment of staff, we will seek to ensure equality of opportunity and treatment for all. No individual applying for a job with the Office for Students will be treated less favourably than any other individual or group of individuals because of their race, colour, ethnic or national origin, religion, **gender**, disability, age, or sexual orientation.

This form is for monitoring purposes and will be removed from your application prior to shortlisting stage. To complete the form is optional

The information you give us will be treated confidentially and will only be used to fulfill statutory obligations and for internal Equal Opportunities monitoring. The information provided will not affect your application for employment in any way.

However, 'gender' is not a protected characteristic under the Equality Act 2010 and is not defined in the Act.

<https://t.co/qisFhCiV1u>

Sex is the protected characteristic under the Act, but that is not on your list.

2/15

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.

You then ask for the 'gender' of the applicant with options:

Male
Female.

3/15

Gender

I am

Is your gender identity the same as the gender you were assigned at birth?

Please select

Please select

Male

Female

Declined to answer

Again, 'gender' is not a protected characteristic under the Equality Act 2010 and is not defined in the Act.

<https://t.co/qisFhCiV1u>

4/15

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.

<https://t.co/CEJ0gkr6nF>

'Gender' is not a synonym for sex.

5/15

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 identity the same as the gender you were assigned at birth"

'Gender identity' and 'gender' are not protected characteristics under the Equality Act 2010 and are not defined in the Act.

6/15

Gender

I am

Please select



Is your gender identity the same as the gender you were assigned at birth

Please select



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

7/15

'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.

8/15

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.

9/15

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

10/15

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.

11/15

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.

12/15

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

13/15

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.

14/15

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>

15/15

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