EMPLOYMENT TRIBUNAL CASE STUDY

**BRIEF**

*D P Evans v Xactly Corporation**Limited case number:* [*2200299/2017*](https://assets.publishing.service.gov.uk/media/5a83052a40f0b62305b9536a/Mr_D_P_Evans_v_Xactly_Corporation_Ltd_-_2200299-2017_-_Final.pdf)

Mr Evans was employed as a sales representative at Xactly for less than a year, until they dismissed him for his poor performance. Mr Evans failed to make a single sale at the time he was employed by the company and he was not the only employee to be dismissed or to resign in this time due to poor performance. However, Mr Evans claimed that the reason his performance had suffered was because he had experienced discrimination and victimisation.

Mr Evans also said he had strong ties to the traveller community, although many of his colleagues were not aware of this fact and that he was called a “fat ginger pikey” more than once while he was working at Xactly

Mr. Evans is a Type 1 diabetic and his colleagues were fully aware of this because he would regularly take his diabetic injections at work. Mr Evans said he received comments about his weight which he said was linked to his diabetes and also to an under-active thyroid. These comments included managers calling him “fat Yoda”, “jellied eel salesman” and “salad dodger”.

He said that he had complained to his manager about this treatment and was then victimised for having done so. The manager said that it was mentioned to him, but this took place outside of work and only in a casual way. Subsequently his manager said he had genuinely forgotten all about it.

It was claimed that inappropriate comments and behaviour were part of the office culture and that Mr. Evans himself was an active participant in this and he seemed to be comfortable with it. He was said to have called a colleague “fat paddy” and another “pudding”.

He also continued to be friends with the colleague who had referred to him as a “fat ginger pikey” and socialised with him outside of the office.

Mr Evans brought forward several claims to the Employment Tribunal saying that he experienced discrimination and victimisation on the basis of disability and race.