

GREATER GWENT FOOD GROUP USE-BY DATE SURVEY

APRIL 2024

A food standards investigation to examine the supply of use-by-date-marked prepacked food on offer for sale to consumers at National supermarket businesses across the Greater Gwent region of South Wales



In 2024, Local Authority food standards enforcement officers from the Greater Gwent region of South Wales investigated the supply of food past its use-by date from supermarkets within Blaenau Gwent, Caerphilly, and Torfaen.

Officers visited 15 supermarkets across Greater Gwent, of which 11 were found to be offering for sale food that was past its use-by date. In total, 90 items of food past its use-by date were removed from sale to consumers as a result of this survey.

INTRODUCTION AND BACKGROUND

Every month, the Food Standards Agency (FSA) commissions an online tracking survey to monitor the behavior and attitudes of adult consumers in relation to food. This monthly survey includes topics such as food availability, food affordability and consumer concerns in relation to food. This survey is called the Consumer Insights Tracker.

The Consumer Insights Tracker data for December 2023¹ revealed that 1 in 4 consumers (25%) were worried their household being able to afford food in the next month, comparable with the previous month (26%).

The affordability of food was the predominant concern for consumers; 88% of consumers being concerned about food prices, and 75% of consumers concerned about food poverty. In respect of food shopping habits, 40% of consumers were purchasing discounted food close to its use-by date to save money. Further, 12% of consumers had eaten food past its use-by date because they could not afford to buy more.

As the price of food remains high compared to recent years², consumers' attitudes towards eating out-of-date food and their shopping behaviors regarding purchasing discounted foods close to its use-by date, shines a light on the statutory responsibility of Local Authority food enforcement services and the impact that their work has on the provision of safe food to consumers, by ensuring that food on offer for sale is within its applicable durability date.

In March and April 2024, three local authorities from within the Greater Gwent Food Group, being a partnership of local authority Trading Standards and Environmental Health food enforcement officers from Blaenau Gwent, Caerphilly, Monmouthshire, Newport, and Torfaen councils, undertook a survey to examine the supply of out-of-date prepacked food on offer for sale to consumers at national supermarket grocery businesses across the Greater Gwent region. The primary aim of that survey was to remove any food past its use-by date from supermarket shelves where found. Secondary, was the sharing of intelligence with other Local Authority services regarding any date-code issues identified during the survey; where national supermarket businesses had a Primary Authority³ relationship with a Local Authority then intelligence was shared via the Primary Authority network and data was shared on the national intelligence database.

In total, 15 supermarkets across Greater Gwent were visited by Local Authority food standards enforcement officers from Blaenau Gwent, Caerphilly and Torfaen, and 90 items of food were removed from the shelves, totaling a combined 122 days past their use-by date.

¹ <https://www.food.gov.uk/research/consumer-interests-aka-wider-consumer-interests/consumer-insights-tracker-december-2023>

² <https://www.ons.gov.uk/economy/inflationandpriceindices/articles/costoflivinginsights/food#:~:text=Although%20the%20rate%20at%20which,beverage%20prices%20rose%20by%209%25.>

³ <https://www.gov.uk/government/publications/primary-authority-overview>

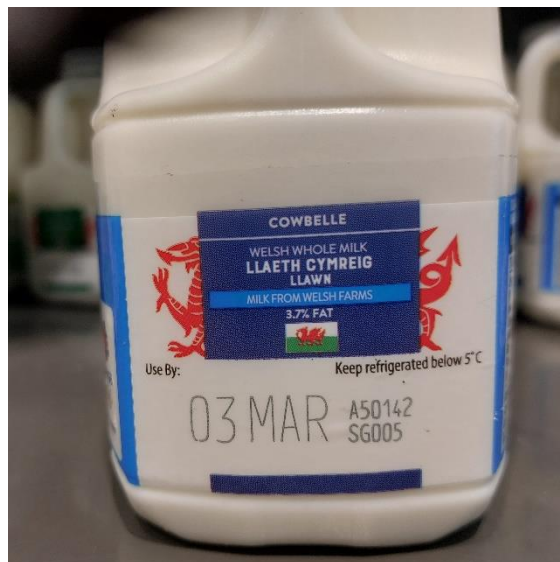
RELEVANT LEGISLATION AND GUIDANCE

Most consumers are familiar with the various types of durability date marks that appear on food labels, such as 'use-by', 'best before', 'best before end', etc., but do consumers really understand what these different dates mean, why they are present, and why they are so important?

EU-wide food labelling legislation, assimilated Regulation (EU) 1169/2011, which is enforceable in Wales by virtue of The Food Information (Wales) Regulations 2014, demands that consumers are given sufficient information about prepacked foods which they purchase, for the purposes of maintaining a high level of health protection. Subject to exemptions, all prepacked food is required to be labelled with either a 'use by' date or a 'best before'/'best before end' date.

Certain foods, as listed in Annex X of assimilated Regulation (EU) 1169/2011, are exempt from carrying a date of minimum durability. These exempted foods are considered safe due to their inherent ability to resist microbial growth e.g. cooking salt and vinegar, or that spoilage is visually noticeable and does not constitute a food safety issue e.g. uncut fresh fruit and vegetables.

The decision as to which type of date mark should be applied to food labels is the responsibility of the manufacturers of the food itself. Likewise, manufacturers are responsible for determining the length of the minimum durability to be applied. Whilst it can be a difficult decision as to which type of date mark should be applied, the overriding decision must be based on ensuring that the food is safe to eat.



LEFT: Whole milk marked with a 'Best before' durability indication.
RIGHT: Whole milk marked with a 'Use-by' durability indication.

So, what is the most appropriate type of date mark that should be applied?

'Use-by' dates concern the safety of a food product and, in accordance with Article 24 of assimilated Regulation (EU) 1169/2011, must be applied to foods which, from a microbiological point of view, are highly perishable, and present a risk to consumers if consumed after the date. Foods can be eaten until the end of the use-by date but not afterwards; after the use-by date has expired, a food shall automatically be deemed to be 'unsafe' in accordance with Article 14 of assimilated Regulation (EC) No 178/2002. Use-by dates are vitally important because food can smell, look and even taste normal, but potentially could contain pathogens rendering the food unsafe if consumed after the use-by date has expired. This is why it is a criminal offence to sell (or offer to sell) food after the use-by date has expired.

Food with an expired 'Best before', or 'Best before end' date can still be offered for sale. This is because 'Best before' and 'Best before end' dates relate to the quality of the food rather than safety. The food will be safe to consume after the date has expired but may not be at its best quality e.g. its flavour, taste or texture might not be as good.

Other durability indications such as 'Display until', 'Sell by' or 'Enjoy by' etc. are not prescribed by law and are not legally required but may be voluntarily declared on food labels to aid stock rotation in retail establishments. The use of additional voluntary date marks in addition to the statutorily required 'use-by' or 'Best before/Best before end' date can cause confusion to consumers. In turn, this can lead to inappropriate use of the food, leading to food waste. Food products marked with a use-by date must be labelled with a description of the storage conditions that must be followed to keep the food safe e.g. 'keep refrigerated'. Food marked with 'Best before' indications, must also be marked with instructions on how to safely store the food where special storage conditions are required in order that the food retains its optimum quality.

RESULTS OF THE USE-BY DATE CHECK SURVEY

During March and April 2024, Local Authority food enforcement officers from the Greater Gwent local authorities of Blaenau Gwent, Caerphilly, and Torfaen visited 15 supermarket grocery businesses across the Greater Gwent region; the primary aim of those inspections was to identify food on display for sale to consumers past its use-by date.

During those inspections, a total of 90 items of food were removed from supermarket shelves, being food that was on display for sale to consumers past its use-by date.

The combined total number of days for all 90 foods items equated to 122 days past the use-by date.

In respect of worse case examples, 2 items of food were found on display for sale at two separate supermarket businesses, each being 4 days past use-by date.

The three supermarkets where the highest number of items found on display for sale past use-by date were located in each of the three separate participating local authority areas, namely Blaenau Gwent, Caerphilly and Torfaen.

A table showing the numbers of items found at each supermarket past use-by date is shown below:

| Table of results showing the total number of items found on display for sale past their use-by date at separate supermarkets across the Greater Gwent region | |
|--|--|
| | Total number of items found past use-by date |
| Supermarket 1 | 21 items found past use-by date |
| Supermarket 2 | 18 items found past use-by date |
| Supermarket 3 | 17 items found past use-by date |
| Supermarket 4 | 14 items found past use-by date |
| Supermarket 5 | 6 items found past use-by date |
| Supermarket 6 | 5 items found past use-by date |
| Supermarket 7 | 3 items found past use-by date |
| Supermarket 8 | 2 items found past use-by date |
| Supermarket 9 | 2 items found past use-by date |
| Supermarket 10 | 1 item found past use-by date |
| Supermarket 11 | 1 item found past use-by date |
| Supermarket 12 | 0 items found past use-by date |
| Supermarket 13 | 0 items found past use-by date |
| Supermarket 14 | 0 items found past use-by date |
| Supermarket 15 | 0 items found past use-by date |

It was noted that 3 of the supermarkets, identified as Supermarket 1 to 4 in the table above, were owned by the same Food Business Operator and trading under the same trading name.

In addition to finding food on display for sale past its use-by date, enforcement officers also found (numerous) items of food that were on display for sale with missing/obliterated date marks, and further food where the mandatory date mark had been obscured by other information. These issues, where found, were brought to the attention of store staff.

Where required as part of a formal Inspection Plan, the results of date checks were fed back to Local Authority Primary Authority partners where a primary authority relationship existed⁴. In total, 6 post-inspection notifications had been made to Local Authority Primary Authority partners as a result of the findings of this survey, so far.

⁴ 'Primary Authority' is a means for businesses to receive assured advice on meeting consumer protection legislative requirements, through a legal partnership between the business and a local authority enforcement service, such as trading standards and environmental health. Inspection Plans agreed between the business and its primary authority partner set out how third-party enforcing officers should undertake inspection, and post-inspection, activity at a business in a Primary Authority partnership. The Primary Authority scheme is operated by The Office for Product Safety and Standards (OPSS) on behalf of the Secretary of State.

EVALUATION/CONCLUSION

Local Authority food enforcement services have a vital role to play in the enforcement of food safety, particularly in respect of the supply of unsafe food past its use-by date.

The frequency and level of non-compliance identified at Greater Gwent supermarket business as a result of this survey was higher than expected; with 11 businesses, out of 15, found to be offering food for sale to consumers past use-by date.

The effects of eating out-of-date food increases the risk of harm to the most vulnerable consumers. Research prepared on behalf of the Food Standards Agency in 2016⁵, indicated that consumers' knowledge of use-by dates and whether foods are safe to eat significantly declined with age. This concern was compounded by the fact that consumers' difficulty in reading dates on food labels also significantly increased with age. These concerns are exacerbated by manufacturer's applying different types of durability dates to similar products on the grocery shelves, and also food labelling inconsistency in the location and size of date marks on similar products, thereby likely reducing consumer awareness of use-by dates on the foods that they purchase.

A research report into the consumption of food with expired use-by dates was published by the Food Standards Agency in 2021⁶, and stated that wider research identified that up to 61% of participants were unable to make an accurate distinction between the best before date and the use-by date⁷. Worryingly, consumer participants in the same research project also used both the use-by date and the best before date interchangeably and treated them in the same way and did not have an appreciation of which food items should be treated differently due to their different date marks. Further, that same FSA research indicated that whilst consumers recognised that eating food past its use-by date could make them unwell, participants had limited understanding of the causes of food poisoning and how this relates to expired food; consumers not appreciating that the growth of bacteria as a risk associated with food sold past its use-by date that could make them ill.

Whilst there is a much bigger discussion to be had around the growing concerns on topics such as the impact of food affordability on the consumption of out-of-date food products, the ability of consumers to recognise, understand and appreciate the reasons why different products have different durability dates, and reasons why people are comfortable with eating food past its use-by date and a reported lack of appreciation of the harm that eating out-of-date food can cause, Local Authority enforcement officers continue to have an impact on public health by ensuring that businesses do not supply food to consumers that are past their use-by date and are unsafe.

⁵ <https://www.food.gov.uk/sites/default/files/media/document/fs409014-paper3.pdf>

⁶

https://www.food.gov.uk/sites/default/files/media/document/fsa_qualitative_research_into_the_consumption_of_food_with_expired_use_by_dates.pdf

⁷ <https://wrap.org.uk/resources/report/consumer-insight-date-labels-and-storage-guidance>