



**Tim Davies** is  
an associate at  
Michelmores LLP

## Keep it legal Immigration for charity work

In 2008 there were two major developments in the field of employment immigration: the introduction of new penalties under the Immigration, Asylum and Nationality Act 2006 for employing someone without immigration clearance; and a new points-based system for acquiring the right to work in the UK.

The system is being rolled out in 2008 and 2009. When fully implemented, it will replace the existing framework of work permits and provide a simplified system for students and migrant workers arriving from outside the European Economic Area and Switzerland.

Charity workers have the option to apply under Tier 2 (skilled workers) and Tier 3 (low-skilled workers), but charities are more likely to have to deal with applications under Tier 5 (temporary workers).

To gain entry clearance under Tier 5, a charity worker must be coming to the UK for voluntary, unpaid charity work. The work must also be directly related to the work of the charity. Points will be awarded on the basis of

applicants' sponsorship and an assessment of their financial means; or a 'maintenance test'.

If applicants are given permission to stay as charity workers, they will be able to live and work in the UK for a maximum of 12 months.

Employers, including charities that engage volunteers, are required to apply to the UK Border Agency for a licence to sponsor overseas students and migrant workers.

The agency will assess organisations' systems for monitoring immigration status as well as their record keeping, recruitment practices and professional accreditations. Licences can be refused for a previous record of poor immigration compliance, with more minor infringements resulting in a temporary B-grade licence rather than a permanent A-grade one.

Once licensed, an organisation is able to issue potential students, employees or volunteers with a certificate of sponsorship. However, there will be ongoing obligations to report to the UKBA any non-compliance with immigration conditions.